



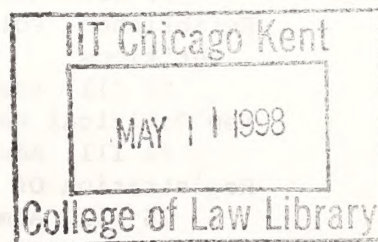
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Illinois Register

Rules of Governmental Agencies

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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April	17, 1998 - Issue 16: Through	March	31, 1998
July	17, 1998 - Issue 29: Through	June	30, 1998
October	16, 1998 - Issue 42: Through	September	30, 1998
January	15, 1999 - Issue 3: Through	December	31, 1998 (Annual)

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

1) Heading of the Part: Immigration Services

2) Code Citation: 14 Ill. Adm. Code 485

3) Section Numbers: Proposed Actions:

485.10	New
485.20	New
485.30	New
485.40	New
485.50	New
485.60	New
485.Exhibit A	New
485.Exhibit B	New
485.Exhibit C	New

4) Statutory Authority: 815 ILCS 505/2AA

5) Complete Description of the Subjects and Issues Involved: Section 2AA of the Consumer Fraud and Deceptive Business Practices Act imposes various restrictions and requirements on persons who provide or offer to provide immigration assistance services, including requirements for registration and disclosure and limitations on services. It also directs the Attorney General to adopt rules that may provide for the form and content of required signs, standard forms and additional requirements.

This rulemaking prescribes the form for registration statements and insurance or surety bond verification statements, establishes maximum fees for services and the required amounts for bonds and insurance, and adds requirements relating to the cancellation of contracts and to signs and advertising.

6) Will this proposed rule replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rule neither creates nor modifies a State mandate within the meaning of Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

Sandra Lovestrand
Assistant Attorney General
Office of the Attorney General
100 W. Randolph Street - 12th Floor
Chicago IL 60601
Telephone: (312)814-3786

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses and not-for-profit corporations that will be affected are those that provide immigration assistance services, including those that represent themselves to the public at large as "Notary Publics," primarily serve alien residents who speak little or no English, and have a very small staff (e.g., one to five employees). These businesses will likely offer to alien residents, or residents who speak little or no English, translation services as they relate to the completing of forms issued by the U.S. Immigration and Naturalization Service.

B) Reporting, bookkeeping or other procedures required for compliance: Immigration service providers will be required to file annual registration statements with the Attorney General's Office.

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Rule begins on the next page:

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

TITLE 14: COMMERCE
SUBTITLE B: CONSUMER PROTECTION
CHAPTER II: ATTORNEY GENERAL

PART 485
IMMIGRATION SERVICES

Section 485.10	Registration
485.20	Malpractice Insurance and/or Surety Bond
485.30	Changes in Registration or Verification
485.40	Maximum Fees for Services
485.50	Contracts: Time and Manner of Cancellation
485.60	Signs and Advertising

Exhibit A	Registration Statement
Exhibit B	Verification of Malpractice Insurance
Exhibit C	Verification of Surety Bond

AUTHORITY: Implementing and authorized by Section 2AA of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2AA].

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____.

Section 485.10 Registration

Persons engaged in the offering of immigration assistance service (hereafter "immigration service providers") must complete and file with the Office of the Attorney General an annual registration statement in the form set forth in Exhibit A of this Part and must comply with the terms of that statement. The registration statement shall be filed each year on or before the anniversary date of the original filing.

Section 485.20 Malpractice Insurance and/or Surety Bond

Persons engaged in the provision of immigration assistance service shall secure malpractice insurance with a minimum policy limit of \$100,000, or a surety bond in the amount of \$100,000, and shall submit to the Office of the Attorney General verification of the surety in the form set forth in Exhibit B or C of this Part, respectively. Reverification shall be submitted annually with the registration statement.

Section 485.30 Changes in Registration or Verification

Registrants must provide written notification to the Attorney General of any changes in the information reported in the registration statement or in the

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

insurance or surety bond verification forms within 90 days after the changes.

Section 485.40 Maximum Fees for Services

- a) Preparation and Completion of Forms. Immigration service providers shall charge no more than \$5 per quarter hour (15 minutes) for permissible services listed below:
- 1) Completing a government agency form, requested by the customer and appropriate to the customer's needs, only if the completion of that form does not involve a legal judgment for that particular matter.
 - 2) Transcribing responses to a government agency form that is related to an immigration matter, but not advising a customer as to his or her answers on those forms.
 - 3) Translating information on forms to a customer and translating the customer's answers to questions posed on those forms.
 - 4) Securing for the customer supporting documents currently in existence, such as birth and marriage certificates, that may need to be submitted with government agency forms.
 - 5) Translating documents from a foreign language into English.
 - 6) Preparing or arranging for the preparation of photographs and fingerprints.
 - 7) Arranging for the performance of medical testing (including X-rays and AIDS tests) and the obtaining of reports of such test results.

b) No Attorney Referral Fees. No person subject to these regulations may charge fees directly or indirectly for referring an individual to an attorney who could undertake legal representation for a person in an immigration matter.

c) Notarization Fees. Persons subject to these regulations may charge a fee for notarizing documents as permitted by the Illinois Notary Public Act [5 ILCS 312].

d) English, Civics Courses. Persons subject to this Part may charge reasonable fees for the provision of English and Civics courses, but these fees shall not exceed \$5 per classroom hour of instruction.

e) Envelopes, Photographs. Any person subject to this Part may charge for the provision of envelopes and photographs only if the person who is charged is advised, orally and in writing, and in a language understood by that person, that s/he is free to obtain his or her own photographs and envelopes, and may supply them for use in any submission to INS at no additional charge. No person subject to this Part may charge for the provision of more photographs than are required by the INS and that are to be provided to INS as part of any submission prepared in whole or in part by such person.

Section 485.50 Contracts: Time and Manner of Cancellation

A person subject to this Part shall provide the consumer with a contract

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

written in English and in the language of the consumer. The contract shall state a time and manner for cancellation as follows:

- a) Time for Cancellation: 3-Day Right of Cancellation. The contract for services must inform the consumer that s/he may rescind the contract within 72 hours, or 3 business days, after entering into the contract. This right of cancellation is in addition to any right of cancellation provided for by Section 2B of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2B] or any other statute.
- b) Business Day Defined. For purposes of calculating the 3-day period discussed in subsection (a) above:
 - 1) Sunday shall not be calculated as a business day.
 - 2) Saturday shall be calculated as a business day.
- c) Manner of Cancellation. The contract must inform the consumer how s/he may cancel the contract for services.

Section 485.60 Signs and Advertising

- a) A person subject to this Part shall post on his or her premises the signs described below in English and in every other language in which the person provides or offers to provide assistance in immigration matters. English and foreign language signs shall be posted on separate signs. These individual signs shall be posted in a location where they will be visible to customers. Each sign shall be at least 11 inches by 17 inches, and the print on each sign shall be at least 1-1/2 inches tall. Each sign shall contain the following words or their substantial equivalents:
 - 1) The statement "I AM NOT AN ATTORNEY OR A LEGAL REPRESENTATIVE ACCREDITED BY THE IMMIGRATION AND NATURALIZATION SERVICE."
 - 2) The statement "I AM NOT ACCREDITED TO REPRESENT YOU BEFORE THE IMMIGRATION AND NATURALIZATION SERVICE OR THE UNITED STATES BOARD OF IMMIGRATION APPEALS," if applicable.
 - 3) Any fee schedule or fees charged for services rendered.
 - 4) The statement "YOU MAY CANCEL ANY CONTRACT WITHIN 3 BUSINESS DAYS AND HAVE YOUR MONEY AND DOCUMENTATION RETURNED TO YOU FOR SERVICES NOT PERFORMED."

- b) Every person engaged in immigration assistance service who is not an attorney who advertises immigration assistance service in a language other than English, whether by radio, television, signs, pamphlets, newspapers, or other written communication, with the exception of a single desk plaque, shall post or otherwise include with such advertisement a notice in English and the language in which the advertisement appears. This notice shall be of a conspicuous size, if in writing, and shall state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If such advertisement is made by radio or television, the statement may be modified but must include substantially the same message.

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

Section 485.EXHIBIT A Registration Statement

STATE OF ILLINOIS
OFFICE OF THE ATTORNEY GENERAL
CONSUMER FRAUD BUREAU
100 WEST RANDOLPH STREET - FLOOR 12
CHICAGO, ILLINOIS 60601

REGISTRATION STATEMENT OF IMMIGRATION SERVICE PROVIDER

NOTE: The Registrant shall not, by completing this form, construe such action as an approval or sanction of the business practices of the Registrant by the State of Illinois or the Office of the Attorney General.

Today's Date: _____

This registration statement, together with verification of malpractice insurance and/or a surety bond in the amount of \$100,000, is to be filed with the Office of the Attorney General. When a change in the information contained in either of these statement occurs, the registered immigration service provider must file a statement of amendments within 90 days.

1. Name of immigration service provider: _____

Address, City, Zip Code: _____

Area Code and Telephone: _____

2. Legal description of immigration service provider (i.e., corporation, partnership, assumed name, etc.): _____

3. Name, address and telephone number of individuals authorized to accept service of process on behalf of the immigration service provider. _____

4. Name, address and telephone number of any and all persons who directly or indirectly own or control 10% or more of the immigration service provider's business. (If additional space is needed, attach listing.) _____

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

5. **Malpractice Insurance and/or Surety Bond Information.**
Please check one of the following, and complete relevant sections below: I have Malpractice Insurance _____ I have a Surety Bond _____

A. MALPRACTICE INSURANCE INFORMATION

1. Name, address, telephone of Malpractice Insurance Carrier: _____

2. Policy No.: _____

3. Policy Amount: _____

4. Expiration Date: _____

B. SURETY BOND INFORMATION

1. Name, address, telephone of Bonding Company: _____

2. Bond No.: _____

3. Bond Amount: _____

4. Expiration date: _____

6. Has there, during the existence of the immigration service provider's business operation, ever been any litigation or complaint filed against it by a local or governmental authority of the State of Illinois, any other state, or the United States, relating to the business operations of the registering immigration service provider?

_____ yes _____ no

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

7. If the answer to question 6 above is "no," complete and notarize the following statement:

I, _____, under oath, do hereby affirm there has been no litigation or complaint filed against _____ (name of provider) by any local or governmental authority of the State of Illinois, any other state, or the United States.

Signature of Affirmant, Title or Official Capacity _____

Subscribed and affirmed to before me this _____ day of _____, _____.

NOTARY PUBLIC

(Seal)

8. If the answer to question 6 above is "yes," answer the following:

i) Name and address of the plaintiff or complainant. _____

ii) Name and address of the court or governmental office where the lawsuit or complaint was filed. _____

iii) Filing number of the lawsuit or complaint brought against the immigration service provider. _____

iv) Date when the lawsuit or complaint was filed. _____

v) A brief description of the nature of the lawsuit or complaint. _____

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

(Attach additional pages if necessary.)

vi) What outcome (i.e., trial, settlement)?

9. If the answer to question 6 above is "yes," complete and notarize the following statement:

I, _____, under oath, do hereby affirm the foregoing statements and affirm any and all attachments are true and correct.

Signature of Affirmant, Title or Official Capacity

Subscribed and affirmed to before me this _____ day of _____.

(Seal)

NOTARY PUBLIC

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

Section 485.EXHIBIT B Verification of Malpractice Insurance

STATE OF ILLINOIS
OFFICE OF THE ATTORNEY GENERAL
CONSUMER FRAUD BUREAU
100 WEST RANDOLPH STREET - FLOOR 12
CHICAGO, ILLINOIS 60601

VERIFICATION OF MALPRACTICE INSURANCE
BY IMMIGRATION SERVICE PROVIDER

NOTE: The Registrant shall not, by completing this form, construe such action as an approval or sanction of the business practices of the Registrant by the State of Illinois or Office of the Attorney General.

Today's Date _____

Insurance Carrier: _____

Address, City, Zip Code _____

Policy No.: _____ Coverage Amount: \$ _____

Expiration Date: _____

KNOW ALL PERSONS BY THESE PRESENTS:

That _____, (Name of Insured) providing immigration services as defined by Section 2AA of the Illinois Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2AA] (hereinafter, "the Act") and located at _____ (address), as insured, and _____ (Name of Insurer), are held firmly bound unto the People of the State of Illinois in the penal sum of \$100,000, for the payment of which, we bind ourselves, our heirs, executors, successors and assigns, jointly and severally, firmly by these presents. The insured is engaged in the business of providing immigration services within the meaning of the Act and is required to furnish verification of malpractice insurance coverage.

Violation of the Act by the insured shall constitute malpractice notwithstanding any exclusionary clauses in the policy statement of said malpractice insurance coverage, a copy of which is attached hereto and incorporated herein as Exhibit A.

The Attorney General or State's Attorney of any County may bring an action against the insured for violations of the Act, and the insured shall be

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

obligated for any and all judgments entered against the insured.
The liability of insurer for indemnifying any claim shall be limited to actual damages arising from insured's violation of the Act.
The aggregate liability of the insurer on all claims whatsoever shall not exceed the amount of this policy.
This policy is executed by the insurer to comply with the provisions of the Act, and the policy shall be subject to all of the terms and provisions thereof.
IN WITNESS WHEREOF, the insured, by a duly authorized officer or representative, has hereunto set its seal, and the named insurer has caused these presents to be signed by its duly authorized officer this _____ day of _____, _____.

Insured

Insurer

By:

Signature of officer or agent

By:

Signature of officer or agent

Address

Address

City, State, Zip Code

City, State, Zip Code

(Seal)

Notary Public

* * *

AN IMMIGRATION SERVICE PROVIDER IS REQUIRED TO CONTINUOUSLY MAINTAIN MALPRACTICE INSURANCE WITH MINIMUM COVERAGE OF \$100,000, OR A SURETY BOND IN THE AMOUNT OF \$100,000. THE PROVIDER SHALL ALSO MAINTAIN A SURETY BOND FOR A PERIOD OF 2 YEARS FOLLOWING THE DATE ON WHICH IT CEASES OPERATIONS.

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

Section 485.EXHIBIT C Verification of Surety Bond

STATE OF ILLINOIS
OFFICE OF THE ATTORNEY GENERAL
CONSUMER FRAUD BUREAU
100 WEST RANDOLPH - FLOOR 12
CHICAGO, ILLINOIS 60601

VERIFICATION OF SURETY BOND
BY IMMIGRATION SERVICE PROVIDER

NOTE: The Registrant shall not, by completing this form, construe such action as an approval or sanction of the business practices of the Registrant by the State of Illinois or the Office of the Attorney General.

Today's Date: _____

Bond Number: _____ Bond Amount: \$ _____

Expiration Date: _____

KNOW ALL PERSONS BY THESE PRESENTS:

That _____, (Name of Principal) providing immigration services as defined by Section 2AA of the Illinois Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2AA] (hereinafter, "the Act"), located at _____, (address), as principal, and _____, (name of surety) a corporation authorized to transact a general surety business in the State of Illinois, as surety, are held firmly bound unto the People of the State of Illinois in the penal sum of \$100,000, for the payment of which, we bind ourselves, our heirs, executors, successors and assigns, jointly and severally, firmly by these presents.

The principal is engaged in the business of providing immigration services within the meaning of the Act and is required to furnish a bond conditioned as herein set forth; and this bond is executed and tendered in accordance therewith.

The conditions of this obligation are that if the principal complies with the provisions of the Act and does not damage any person by any violation of the Act, then this obligation is to be void; otherwise, it is to remain in full force and effect.

The Attorney General or State's Attorney of any County may bring an action against the principal and surety on this bond to recover damages, and the surety shall be obligated for any and all judgments entered against the principal.

The liability of surety for any claim arising under this bond shall not exceed the actual damage arising from principal's violation of the Act.

ATTORNEY GENERAL

NOTICE OF PROPOSED RULES

The aggregate liability of the surety on all claims whatsoever shall not exceed the amount of this bond.

This bond is executed by the surety to comply with the provisions of the Act, and this bond shall be subject to all of the terms and provisions thereof.

IN WITNESS WHEREOF, both the principal and surety, by duly authorized officers or representatives, have hereunto set their seal, and the surety has caused these presents to be signed by its duly authorized officer this _____ day of _____, _____.

Principal

Surety

By: _____
Signature of agentBy: _____
Signature of agent

Address

Address

City, State, Zip Code

City, State, Zip Code

(Seal)

Notary Public

* * *

AN IMMIGRATION SERVICE PROVIDER IS REQUIRED TO CONTINUOUSLY MAINTAIN MALPRACTICE INSURANCE WITH MINIMUM COVERAGE OF \$100,000, OR A SURETY BOND IN THE AMOUNT OF \$100,000. THE PROVIDER SHALL ALSO MAINTAIN A SURETY BOND FOR A PERIOD OF 2 YEARS FOLLOWING THE DATE ON WHICH IT CEASES OPERATIONS.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Merit and Fitness2) Code Citation: 80 Ill. Adm. Code 3023) Section Numbers: Proposed Action:

302.270 Amend

302.300 Amend

302.610 Amend

4) Statutory Authority: Implementing and authorized by the Personnel Code [20 ILCS 415/8b.6 and 8b.12].

5) A Complete Description of the Subjects and Issues Involved: A clarifying change is being made to Section 302.270(c) so that it conforms with an earlier amendment which provides for a four month probationary period following promotion. Section 302.270(d) is also being clarified so that it provides for annual performance evaluations, consistent with Section 310.450 of the Pay Plan. Finally, changes are being proposed to Sections 302.300 and 302.610. These changes would shorten the probationary period for reinstated employees from six months to four months, thus conforming it to the probationary period for promotional appointments. As with promoted employees, employees who are reinstated have already served a six month probationary period at the time of their initial appointment to State service. In addition, like employees who are promoted, reinstated employees have demonstrated good performance since a reinstated employee must have left State service in good standing.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No7) Does this rulemaking contain an automatic repeal date? No8) Does this rulemaking contain incorporations by reference? No9) Are there any other proposed rulemakings pending on this Part? No10) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local government.11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days of the date of publication to:

Stephen W. Seiple
720 Stratton Office Building
Springfield IL 62706
217/782-9669

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 12) Initial Regulatory Flexibility Analysis: Does not apply to small businesses.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because: The need for the rulemaking did not come to the Department's attention until after the timeframe in which a regulatory agenda was to be filed.

The full text of the Proposed Amendments begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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 SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
 POSITION CLASSIFICATIONS
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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302.660 Suspension Totaling More than Thirty Days in any Twelve Month Period
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 302.822 Appointees Under Term Appointments
 302.823 No Promotion to Positions Covered by Term Appointments (Repealed)
 302.824 No Reallocation to Term Positions
 302.825 Reemployment Rights to Term Appointment
 302.830 Expiration of Term Appointment
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 302.841 Renewal Procedures for Incumbents on the Effective Date of Section 8b18 of the Personnel Code (Repealed)
 302.842 Effective Date of Reappointment or Termination (Repealed)
 302.846 Change in Position Factors Affecting Term Appointment Exclusion
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 302.860 Renewal Procedure for Incumbents Subject to Public Act 83-1369
 302.863 Renewal of Certified or Probationary Incumbents in Exempted Positions

AUTHORITY: Implementing and authorized by the Personnel Code [20 ILCS 415].

SOURCE: Filed May 29, 1975; amended at 2 Ill. Reg. 33, p. 24, effective September 1, 1978; amended at 3 Ill. Reg. 1, p. 63, effective January 1, 1979; amended at 3 Ill. Reg. 22, p. 78, effective June 1, 1979; emergency amendment at 3 Ill. Reg. 48, p. 188, effective January 1, 1980, for a maximum of 150 days; emergency amendment at 4 Ill. Reg. 1, p. 76, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 11, p. 67, effective March 1, 1980; amended at 4 Ill. Reg. 15, p. 216, effective March 31, 1980; amended at 4 Ill. Reg. 22, p. 227, effective June 1, 1980; amended at 5 Ill. Reg. 8029, effective August 1, 1981; amended at 7 Ill. Reg. 654, effective January 5, 1983; codified at 7 Ill. Reg. 13198; amended at 8 Ill. Reg. 7788, effective May 23, 1984; emergency amendment at 9 Ill. Reg. 241, effective January 1, 1985,

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for a maximum of 150 days; amended at 9 Ill. Reg. 7907, effective May 15, 1985; amended at 10 Ill. Reg. 13940, effective September 1, 1986; amended at 12 Ill. Reg. 5634, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 16214, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; amended at 13 Ill. Reg. 3722, effective March 13, 1989; amended at 13 Ill. Reg. 10820, effective June 23, 1989; amended at 13 Ill. Reg. 12970, effective August 1, 1989; amended at 15 Ill. Reg. 17974, effective November 27, 1991; amended at 16 Ill. Reg. 8375, effective May 21, 1992; emergency amendment at 16 Ill. Reg. 11645, effective July 6, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 13489, effective August 19, 1992; amended at 16 Ill. Reg. 17607, effective November 6, 1992; amended at 17 Ill. Reg. 3169, effective March 1, 1993; amended at 18 Ill. Reg. 1892, effective January 25, 1994; amended at 18 Ill. Reg. 17183, effective November 21, 1994; amended at 19 Ill. Reg. 8145, effective June 7, 1995; amended at 20 Ill. Reg. 3507, effective February 13, 1996; amended at 21 Ill. Reg. 15462, effective November 24, 1997; amended at 22 Ill. Reg. _____, effective _____.

SUBPART E: PERFORMANCE REVIEW

Section 302.270 Performance Evaluation Forms

- Performance records shall include an evaluation of employee performance prepared by each agency on forms prescribed by the Director.
- For any employee serving a six month probationary period, the agency shall prepare and submit to the Department two such evaluations, one at the end of the third month of the employee's probationary period and another 15 fifteen days before the conclusion thereof.
- For an employee serving a four three month probationary period, the agency shall prepare and submit to the Department an evaluation form three two and one half months after the commencement of the probationary period.
- For a certified employee, each agency shall prepare such evaluation not less often than annually each--time--an--employee--receives--a satisfactory--or--superior--performance--increase--under--the--Department's Pay-Plan.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART F: PROBATIONARY STATUS

Section 302.300 Probationary Period

- A probationary period of six months shall be served by:
 - an employee who enters State service or commences a new period of continuous service, except an employee who is reinstated as

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provided under Section 302.610;7

- 2) ~~an employee who is reinstated as provided under Section 302-610;7~~
 2) ~~an employee who is appointed from an open competitive eligible list, whether or not it be considered an advancement in rank or grade.~~
- b) A probationary period of four months shall be served by any employee who is promoted pursuant to Subpart G or reinstated pursuant to Section 302.610. ~~An employee transferred during the probationary period shall serve that portion of the probationary period--which--was--not completed at the time of such transfer.~~
- c) ~~An employee transferred during the probationary period shall serve that portion of the probationary period which was not completed at the time of such transfer.~~
- d) ~~A probationary period shall not be deemed to be continued by the payment of any sum for vacation or other benefits accrued during such probationary period.~~
- e) ~~If an employee is absent from work for more than 15 consecutive calendar days during the probationary period because of leave of absence, disciplinary suspension, sick leave, unauthorized absence, or work related injury or industrial disease, such absence shall serve to extend the probationary period by the length of the absence.~~

(Source: Amended at 22 Ill. Reg. _____, effective _____)

SUBPART J: VOLUNTARY REDUCTION AND LAYOFFS

Section 302.610 Reinstatement

- a) On request of an operating agency, the Director may reinstate a former certified employee who resigned or terminated in good standing or whose position was reallocated downward or who was laterally transferred or whose name was placed on a reemployment list. Such reinstatement may be to a position in the class to which the employee was assigned prior to resignation, termination, downward allocation, lateral transfer or layoff or to a position in any other position class for which the employee is qualified. The Director may reinstate an employee who was formerly certified under the Secretary of State Merit Employment Code, the University Civil Service System of Illinois, Comptroller Merit Employment Code or the State Treasurer Employment Code. A reinstated employee shall serve an additional four six month probationary period in the position. Request for reinstatement shall be accompanied by the employee's performance records when available.
- b) A certified employee whose name appears on a reemployment list may be reinstated to a position other than the position to which the employee is eligible for reemployment. If reinstated to a position in the same or a higher pay grade than that for which the employee is eligible for

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reemployment, then, upon satisfactory completion of the new probationary period, the employee's name shall be removed from the reemployment list. If reinstated to a position in a lower pay grade than that for which the employee is eligible for reemployment, it shall have no effect on the employee's reemployment rights.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Client Service Planning2) Code Citation: 89 Ill. Adm. Code 3053) Section Numbers:

305.10	Repeal
305.20	Repeal
305.30	Repeal
305.40	Repeal
305.50	Repeal
305.60	Repeal
305.70	Repeal
305.80	Repeal
305.90	Repeal
305.100	Repeal
305.110	Repeal
305.120	Repeal
305.130	Repeal
305.140	Repeal

Proposed Action:

Repeal
Repeal
Repeal
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Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal
Repeal

4) Statutory Authority: 20 ILCS 505

5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed and will be replaced by two new sets of rules being proposed by the Department. The two new rules, which implement the Permanency Initiative legislation of 1997 (PA 90-27 and 90-28), are 89 Ill. Adm. Code 315, Permanency Services, and 89 Ill. Adm. Code 316, Administrative Case Reviews and Court Hearings.

6) Will these proposed rules replace an emergency rule currently in effect?
Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rules contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: This repealer does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed repealer may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jerry B. Crabtree

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Department of Children and Family Services
406 East Monroe, Station #65
Springfield, Illinois 62701-1498
(217) 524-1983
(217) 524-3715
Internet address: ORPINFO@pop.state.il.us

The Department will consider fully all written comments on this proposed repealer submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: This repealer is necessary in order to adopt two new Parts which significantly amend the Department's service planning and case review processes.

The full text of the Proposed Repealer begins on the next page.

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TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER a: SERVICE DELIVERY

PART 305

CLIENT SERVICE PLANNING (REPEALED)

Section	Purpose
305.10	Definitions
305.20	Introduction to Client Service Planning
305.30	Types of Permanency Goals and Alternative Permanency Options
305.40	Service Plan
305.50	Case Review System
305.60	Roles and Responsibilities of the Administrative Case Reviewer
305.70	Decision Review
305.80	Parent-Child Visitation (Repealed)
305.90	Evaluating Whether Children in Placement Should Be Returned Home
305.100	Termination of Parental Rights
305.110	Planning for the Termination of Services
305.120	The Department's Role in the Juvenile Court
305.130	Compliance With the Client Service Planning Requirements
305.140	

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505], the Abused and Neglected Child Reporting Act [325 ILCS 5], the Adoption Assistance and Child Welfare Act of 1980, amending Section 475 of the Social Security Act (42 U.S.C. 670 et seq.), Section 2-5 of the Juvenile Court Act of 1987 [705 ILCS 405/2-5], and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 14456, effective December 29, 1981; amended at 8 Ill. Reg. 21570, effective November 1, 1984; amended at 9 Ill. Reg. 7920, effective May 31, 1985; recodified at 16 Ill. Reg. 12772; amended at 16 Ill. Reg. 16552, effective October 19, 1992; amended at 18 Ill. Reg. 17200, effective December 1, 1994; amended at 19 Ill. Reg. 7171, effective June 1, 1995; amended at 19 Ill. Reg. 10487, effective July 1, 1995; amended at 20 Ill. Reg. 9030, effective July 5, 1996; amended at 21 Ill. Reg. 6193, effective May 15, 1997; amended at 21 Ill. Reg. 14674, effective November 1, 1997; repealed at 22 Ill. Reg. _____, effective _____.

Section 305.10 Purpose

The purpose of the rules in this Part is to explain the philosophy, standards, and guidelines around which the Department centers its planning and decision-making for children and families.

Section 305.20 Definitions

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"Administrative case review" means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subjects of the review.

"Biological father" means a man who was not married to the mother when the child was born and who has acknowledged his paternity in open court, or who has signed a statement acknowledging paternity, or who is legally presumed to be the father because he married the child's mother after the child's birth and his name appears on the child's official record of birth, or whose paternity is adjudicated in court. When paternity has been established in the above manner, the relatives of the biological father as well as those of the mother may be considered for the placement of related children.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parent(s) have signed an adoptive surrender or voluntary placement agreement with the Department.

"Delegated relative authority" means the Department has selected a relative caregiver, in accordance with Section 305.40(d), as a continuous, stable living arrangement for related children and has delegated day to day decision making on behalf of those children to the relative caregiver. The Department would retain guardianship of the children and continue to exercise authority over all major decisions which affect their lives and health.

"Discharge planning" means service planning which focuses on providing a smooth transition from Department guardianship or custody and the receipt of child welfare services to discharge from guardianship or custody and the termination of child welfare services.

"Family" means one or more adults and children, related by blood, marriage or adoption and residing in the same household.

"Individual treatment plan (ITP)" or "treatment plan" as defined in 59 Ill. Adm. Code 132, Medicaid Community Mental Health Services, means a written document developed by the appropriate service provider staff with the participation of the client with a mental illness and, if applicable, the client's guardian, which specifies the client's diagnosis, problems, and service needs to be addressed, the intermediate objectives and long-term goals for the services and the planned interventions for achieving these goals.

"Individualized Education Plan/Program (IEP)" means the document

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prepared by the local school district, as a result of a Multidisciplinary Conference, that identifies the specific special education services that will be provided to the child. The IFP also includes education goals, services, frequency, quantity and duration. IFP is further defined in 23 Ill. Adm. Code 226, Special Education.

"Individualized Family Service Plan (IFSP)" means a written working document developed for each child in order to facilitate the provisions of Early Intervention (EI) services. The IFSP is created by the family, an inter-disciplinary team, the core EI agency, and the case manager (service coordinator). The EI agency is responsible for coordinating the IFSP implementation.

"Minimum parenting standards" means that a parent or other person responsible for the child's welfare sees that the child is adequately fed, clothed appropriately for the weather conditions, provided with adequate shelter, protected from physical, mental and emotional harm, and provided with necessary medical care and education required by law. A parent who has abandoned a child, deserted a child for three months, or failed to demonstrate a reasonable degree of interest, concern, or responsibility as to the welfare of a newborn child for 30 days after birth is deemed to have failed to have met the minimum parenting standards, unless the parent has arranged for the child's care in the home of a relative who is willing and capable of assuming responsibility for the child. In addition, a parent who is addicted to alcohol or who is a drug addict, as defined in the Illinois Alcoholism and Other Drug Dependency Act [20 ILCS 305] and who has consistently failed to cooperate in a rehabilitation program for a period of at least twelve months is deemed to have failed to have met the minimum parenting standards unless the parent has arranged for the child's safety and well-being despite the parent's addiction.

"Parents" means the child's legal parents whose rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the continuous living arrangement which the Department deems desirable for and available to the child. A permanent legal status is usually a component of the permanency goal. The means for attaining a permanency goal as well as the goal itself can change as the child's developmental and emotional needs change or as the child's and family's circumstances change.

"Permanency option" means a placement which provides a continuous, stable living arrangement for the child, but does not necessarily provide a permanent living arrangement or a permanent legal status for the child. Permanency options may serve as steps to the ultimate

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achievement of a permanency goal.

"Permanent family placement" means placement in a foster family home or a relative home which is intended to last until the child reaches age 21 or until the child is capable of self-sufficiency. The Department may retain guardianship of the child, or the foster parent or relative may take guardianship of the child.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or by a court of law.

"Private guardianship" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/Art. XI].

"Rehabilitative services plan." A written plan developed in accordance with 59 Ill. Adm. Code 132.155, Medicaid Community Mental Health Services, which includes identification of the problems to be addressed, the rehabilitative services to be provided and the outcomes to be achieved for eligible clients served by the Department pursuant to the Abused and Neglected Child Reporting Act, the Children and Family Services Act or the Juvenile Court Act of 1987.

"Relative," for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

- is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, great-uncle, or great-aunt, or
- is the spouse of such a relative, or
- is the child's step-father, step-mother, or adult step-brother or step-sister.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its siblings are placed together with that person. [20 ILCS 505/7(b)]

"Service plan" means a written plan on a form prescribed by the Department which guides all participants in the plan toward the permanency goals for the children.

"Substitute care" means the care of children who require placement away from their families. Substitute care includes foster family care, care provided in a relative home placement as defined in 89 Ill. Adm. Code 301, Placement and Visitation Services, Section 301.80, care

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provided in a group home, and care provided in a child care or other institution.

"Termination of parental rights" means a court order which relieves the legal parents of parental responsibility for the child and revokes all legal rights with respect to the child. The termination order also frees the child from all obligations of maintenance and obedience with respect to the legal parents.

Section 305.30 Introduction to Client Service Planning

a) Principles of Client Service Planning

1) Client service planning is an on-going process that must begin with an assessment of client need in relation to Department service mandates and must include periodic reassessment of such needs in light of the services provided, the permanency goal or an alternative permanency option, and the progress toward achieving the goal or option.

2) Case planning must ensure accountability on the part of clients, the Department and other service providers through written documentation of expectations and obligations. This documentation should include:

- A) a desired permanent living arrangement for each child served that is recorded in the service plan as a permanency goal or permanency option;
- B) identification of problems that must be resolved to achieve this status, including, when applicable, achievement of minimum parenting standards;
- C) identification of measurable changes or outcomes that will signify problem resolution;
- D) identification of what the Department and other service providers will provide toward achieving the desired permanent living arrangement;
- E) identification of applicable timeframes; and
- F) identification of any consequences to the client if the timeframes are not met.

3) Although the Department maintains ultimate responsibility for the service plan, case planning must be an inclusive process in which all of the participants in a case (parents, children, service providers) are given the opportunity to have input.

4) Case planning activities, including development of the service plan and case review, reflect and must be consistent with federal and State requirements, e.g., 42 U.S.C.A. 670 et seq. and the Children and Family Services Act [20 ILCS 505].

b) The Need For a Permanent, Secure and Nurturing Home

1) The Department recognizes that children need permanent, secure, and nurturing homes for healthy psychological development in order to mature to stable adulthood. Whenever it is in the best

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interests of the child, the Department strives to preserve family life and to stabilize children's homes and to assist in the solution of problems which are likely to result in the abuse, neglect, or exploitation of children.

2) When children and parents must be separated to reduce or prevent harm to the children, the Department strives to reunite families as quickly as is consistent with the children's best interests, safety and well-being. When children and parents cannot be reunited because the parents are unable or unwilling to care for the children and therefore cannot achieve the minimum parenting standards, the Department strives to find other permanent homes for children.

c) The Child's Sense of Time and The Importance of Aggressive Planning

1) The Department recognizes that children have a different sense of time than adults. What seems like a short family disruption or a brief separation to adults may be a very painful and intolerably long period for children. In general, younger children are less able to tolerate periods of separation than older children. For this reason, the Department shall act promptly using the best information available when dealing with children and their families.

2) The Department believes that aggressive planning with an emphasis on decision making, followed by the actions needed to carry out those decisions, will secure permanent homes for children. Therefore, the Department requires service planning directed toward a permanency goal beginning from the earliest contacts with children and families. Through service planning the Department strives to assure that children are in permanent homes as quickly as is consistent with their safety and well-being while recognizing the urgency caused by the child's sense of time.

d) The Use of Outside Consultation

1) The Department recognizes the gravity of the decisions that must be made and, recognizing the urgency caused by the child's sense of time, the importance of acting deliberatively, yet promptly, on each case. Therefore, the Department strives to consult professionals and agencies outside the Department and to seek a balance of opinions from the following public and private agencies, when appropriate:

- A) health, education and social service agencies;
- B) law enforcement agencies; and
- C) other agencies, organizations, or programs which provide or are concerned with human services.

2) This consultation allows Department staff to attain a broad perspective on the alternatives available to children and families and on the potential impact of these alternatives on the lives of the children and families served.

e) The Critical Decisions

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- 1) Although all Department decisions affecting children and families are important, the Department identifies the following decisions as the most critical ones affecting children and families:
 - A) deciding whether to remove children from the home of their parents or relative caregiver or whether services can prevent placement away from their parents or relative caregiver;
 - B) deciding whether to return children to the home of their parents or relative caregiver from a placement away from their parents or relative caregiver;
 - C) deciding whether to decrease the frequency or the duration of parent and/or sibling visits with the child and whether the visits should be supervised;
 - D) deciding whether to change children's placements;
 - E) deciding whether parental rights should be terminated and an alternate permanent home sought;
 - F) deciding if children are prepared for partial or total independence;
 - G) deciding whether children shall be placed apart from siblings who are also placed in substitute care; or
 - H) deciding whether to petition the court to terminate Department custody or guardianship of a child.
- 2) When making a critical decision, any opinions or recommendations from professionals or agencies outside the Department shall be carefully weighed. In addition, the Department requires the participation of children and families in service planning and decision-making to the greatest extent possible.

Section 305.40 Types of Permanency Goals and Alternative Permanency Options

- a) The Department shall consider the recommendations of the purchase of service providers, if any, and shall select permanency goals or alternative permanency options for the children and families it serves in order to guide service planning and achieve permanent homes for children. The Department shall ensure that services provided to children and families move them toward the permanency goals or alternative permanency options. The permanency goals are:
 - 1) Remaining at Home;
 - 2) Returning Home;
 - 3) Adoption;
 - 4) Permanent Family Placement
 - A) with an unrelated foster family;
 - B) with relatives;
 - 5) Independence;
 - 6) Long Term Care in a Residential Facility;
 - 7) Substitute Care Pending Court Decision Regarding Termination of Parental Rights; and
 - 8) Subsidized Guardianship.

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- b) When selecting a permanency goal, the Department shall use the criteria in this Section.
 - 1) Remaining at Home

Remaining home with their parents or private guardian is the preferred goal when the child's safety and well-being are not clearly endangered if allowed to remain at home. This permanency goal is consistent with the Department's service goal of family preservation. It emphasizes the importance of keeping families together and also stresses that the family is primarily responsible for caring for the child. In addition, this permanency goal is usually the least disruptive to family life.
 - 2) Returning Home
 - A) Returning children to their parent(s)' or private guardian(s)' homes is the preferred goal for children who have been placed in substitute care away from their parents. This permanency goal is consistent with the Department's service goal of family reunification. It reinforces the family's responsibility to care for their children and maintain the family relationship. This permanency goal is usually the least traumatic alternative for both the families and children.
 - B) Returning home should be established as the permanency goal:
 - i) when the parents appear to have the capability to attain the minimum parenting standards with the aid of family reunification services; and
 - ii) when the parents are cooperative with the Department and its purchase of service providers, if any, and want to resolve the problems.
 - C) Returning home should be continued as the permanency goal as long as the parents are substantially complying with the requirements of the service plan and are progressing satisfactorily toward the permanency goal.
 - 3) Adoption

Adoption is the preferred permanency goal when parental rights have been terminated. This permanency goal is to be established only:

 - A) after both parents have signed adoptive surrenders; or
 - B) after a court has terminated the parental rights of both parents and has designated the Department as guardian with the power to consent to the child's adoption; or
 - C) after one parent has signed an adoptive surrender and parental rights have been terminated on the remaining parent through court action; or
 - D) when one parent has signed an adoptive surrender and the identity and/or the whereabouts of the remaining parent is unknown, and the Department expects the parental rights of the remaining parent to be terminated through court action; and

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E) the child, if 14 years of age or over, consents to the adoption.

4) Permanent Family Placement

A) Although a permanent family placement is more desirable than a series of short-term placements, it is not a preferred permanency goal for the child. Without the legal safeguards offered by a permanent legal guardian, a permanent family placement may fail to provide the child with a sense of belonging and permanency. A permanent family placement is the permanency goal only when to return the child home is not consistent with ensuring the child's safety and well-being and:

i) when the child, if 14 years of age or older, clearly does not want to be adopted or the child, if under age 14, has been provided counseling to help him accept another family, but continues to be unable to accept another family; or

ii) the child is otherwise deemed unadoptable.

B) The Department shall strive to assure continuity of care, a sense of permanency, and emotional support for the child by establishing the child's permanent caregiver as the legal guardian of the child with the permanency goal of subsidized guardianship as described in subsection (b)(8) of this Section. However, taking legal guardianship is not required for the placement to be considered permanent.

C) When weighing the advantages of a permanent family placement with relatives against the advantages of a permanent family placement with an unrelated foster family, the quality of the relationships among the relatives, the child, the child's parents, and the child's foster parents, if any, shall be a factor. In addition, another factor shall be the likelihood of establishing a permanent legal relationship between the child and the relative as compared to the likelihood of establishing a permanent legal relationship between the child and the unrelated foster parents.

5) Independence

Independence may be a goal for adolescents 16 years of age or older who have demonstrated the ability to care for themselves, who do not wish to be adopted, who are becoming economically self-sufficient, or who are establishing a family of their own. When the child becomes 18, the child must cooperate according to his service plan. If the child 18 years of age or over does not cooperate, the Department may seek to terminate services and seek to end its legal relationship with the child.

6) Long-Term Care in a Residential Facility

A) A very small percentage of children served by the Department are determined severely physically, mentally, or emotionally handicapped by a physician, psychiatrist, or other

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professional qualified by education or experience to make this judgment. These children require long term care, usually in an intermediate or skilled nursing facility, or in a child care institution. They are expected to continue to need this care in the foreseeable future. For these children, long-term care in a residential facility is the permanency goal.

B) These severely physically, mentally, or emotionally handicapped children who require long-term care should not be confused with children who are in group homes or institutions in order to receive intensive, short-term treatment directed toward correcting problems which significantly interfere with life outside the institution. Long-term care in a residential facility is not an appropriate permanency goal for children who are receiving short-term, intensive services in a group home or institution.

7) Substitute Care Pending Court Decision Regarding Termination of Parental Rights

A) Substitute care pending court decision regarding termination of parental rights is the preferred permanency goal when a decision has been made to pursue termination of parental rights. This goal is to be established only when:

i) Efforts to reunite the child and biological or legal family have been unsuccessful as documented in the case record or the evaluations of at least two professionals have found the parent(s) have a chronic incapacity which will not respond to rehabilitation and which makes it clearly improbable that the parents will attain minimum parenting standards. These professionals must be qualified by their education or experience in the fields of psychiatry, psychology, social work, developmental disabilities, chemical dependency, or other specialized areas of knowledge relevant to the pending issue. These evaluations shall weigh whether the parents can attain the minimum parenting standards (established by the Department) after considering the public, private and extended family resources which can assist the parents with caring for the children; and

ii) The child, if 14 years of age or older, is in agreement with the plan to pursue termination of parental rights; and

iii) Department legal staff determine if there is sufficient evidence to pursue termination of parental rights in accordance with Section 1(D) of the Adoption Act [750 ILCS 50/1(D)].

B) This goal shall continue as the permanency goal until such

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time as the court grants or denies termination of parental rights, or until such time as a degree of progress is noted in the parent(s) situation which would require an evaluation of, and possible change in the established permanency goal pursuant to Sections 305.50 and 305.60.

C) If the court grants termination of parental rights, this goal shall be changed to adoption. If the termination of parental rights petition is denied, another permanency goal shall be selected.

8) Subsidized Guardianship may be selected as the permanency goal when "return home" and "adoption" have been ruled out as permanency goals for the child, but the child resides with a relative or foster home caregiver with whom the child has formed an emotional attachment and who is willing to accept legal responsibility for the child and assume a commitment to a permanent relationship that meets the child's needs over time. In addition, when deciding whether to select subsidized guardianship as the permanency goal, the Department shall consider whether the child can benefit from a living arrangement that does not include the intervention and supervision of the Department, with the exception of possible financial and medical assistance as described in 89 Ill. Adm. Code 302.405. Subsidized Guardianship. In making that determination the Department shall consider the eligibility factors contained in Section 302.405(b).

c) Permanency Options

1) In addition to the permanency goals identified in subsection (b) above, the Department also recognizes delegated relative authority as an alternative permanency option which does not provide the legal status of a permanency goal, but does allow the child to be placed in a stable, continuous living arrangement. When delegated relative authority is selected as a permanency option, the relative caregiver shall continue to receive payments for the care of the child which shall be based on the relative caregiver's licensing status. Administrative case reviews shall continue to be conducted at least every six months, permanency review hearings shall continue to be held as required by law, and parent/child visits shall continue, as appropriate. The Department retains guardianship of the child and the authority to make all major medical consents and other major decisions which affect the related children's lives and health.

2) Effective January 1, 1997, delegated relative authority may no longer be selected as a permanency option. Those relative caregivers who are caring for children in a delegated relative authority arrangement as of January 1, 1997 will be allowed to continue in that arrangement. However, they will be offered the option of serving as subsidized guardians in accordance with the eligibility criteria of 89 Ill. Adm. Code 302.405. Subsidized

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Guardianship.

d) Delegated relative authority may be selected as a permanency option for the following types of cases:

- 1) the children have been living with a relative caregiver who has been licensed under 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes, or who continues to meet the conditions for placement prescribed in 89 Ill. Adm. Code 301, Placement and Visitation Services, Section 301.80 Relative Home Placement, and the children have remained with the relative caregiver for a minimum of one year immediately prior to establishing delegated relative authority;
- 2) the children are in the guardianship of the Department immediately prior to establishing delegated relative authority;
- 3) the children do not have extraordinary medical, mental health, or educational needs which require additional casework services;
- 4) the relative caregivers have demonstrated the willingness and ability to protect the children from persons who may harm them;
- 5) the relative caregivers have demonstrated the willingness and ability to appropriately control and supervise visits and contacts between the children and their biological or legal parents, in accordance with the service plan developed by the Department;
- 6) the relative caregivers have a safe and stable home environment which poses no danger to the related children;
- 7) the Department has documented that reunification with the biological or legal parents within a one year period is highly unlikely for reasons such as:
 - A) long-term parental incarceration; or
 - B) chronic and serious mental illness; or
 - C) serious physical or mental incapacity; or
 - D) addition to drugs or alcohol which is not responding successfully to treatment; or
 - E) other significant barriers to returning the children home within one year;
- 8) adoption (unless adoption by the relative caregiver is pending) or private guardianship as a permanency goal has been determined to be not in the best interests of the related children; or
- 9) other circumstances as the Department may determine to be appropriate.

Section 305.50 Service Plan

a) Purpose of the Service Plan

The service plan is a written plan which is established between the Department, the purchase of service providers, and, if possible, the children and family served. Service plans approved by the Department are required regardless of whether the children and family are served directly by the Department or through purchase of service providers.

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The initial service plan shall be completed within 30 days after case opening and at least once every six months thereafter. The service plan shall be changed and updated as the child and family's situation changes and shall be reviewed regularly as specified in Section 305.60.

b) Contents of the Service Plan

Service plans shall contain the following information:

- 1) the names of the children for whom the Department is legally responsible and/or to whom the Department is providing services;
- 2) the problems that threaten family stability or could lead to placement of the children away from the family home or have resulted in placement of the children away from the family home and an identification of any problems that are causing continued placement of the children away from the home;
- 3) what outcomes would be considered a resolution to these problems;
- 4) the services to be provided to the parents, the children while in care and the foster parents (if necessary when children are placed in foster care), that may best resolve these problems;
- 5) a description of a child's physical, developmental, educational or mental disability and any non-educational specialized services the child is receiving or should receive for each disability. If an Individual Treatment Plan (ITP) or Rehabilitative Services Plan exists for a child, it shall be included in the record;
- 6) a description of the educational program/services the child is receiving or needs to receive (including information regarding Early Intervention, Headstart, or Pre-Kindergarten services for preschool children). If an Individualized Education Plan (IEP) or an Individualized Family Service Plan (IFSP) exists for a child, the IEP or IFSP shall be included in the record;
- 7) who will provide the services, how often they will be provided, and an explanation of why these services will meet the needs of the child;
- 8) if children are placed out of the parents' home, the reasons for the out of home placement and an explanation of why that placement setting was chosen;
- 9) if children placed out of the parent's home are placed a substantial distance (more than 150 miles) from the home of the parents or in a different state (in compliance with 89 Ill. Adm. Code 328, Interstate Placement of Children), the reasons why the placement is in the best interests of the children;
- 10) if children placed out of the parent's home are placed in a different state, a requirement that the child be visited periodically, but not less frequently than every 12 months, by a caseworker of the Department or of the state in which the child has been placed, and that the caseworker submit a report on the visit to the Department;
- 11) if siblings are placed apart from one another, the reason why they are placed apart and what efforts are being made to find a

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joint placement for the sibling group;

- 12) the permanency goal for each child;
 - 13) the responsibilities of the family and the child (when appropriate) in fulfilling the service plan;
 - 14) the responsibilities of the Department and purchase of service providers, if any, in fulfilling the service plan;
 - 15) when children and families are separated, the parent-child visitation plan, if visitation is not prohibited by court order. This plan shall include the time and place of visits, the frequency of visits, the length of visits, and who shall be present at the visits;
 - 16) the timeframes for achieving the permanency goal and the objectives to resolve identified problems and the specification of any consequences to the child and family if the time frames are not met;
 - 17) a statement that the parents or children may disagree with the service plan and that they may have their disagreement recorded; and
 - 18) an explanation of how parents or children may request an appeal and fair hearing.
- c) Copies of the Service Plan
- Copies of the service plan shall be distributed in accordance with the Department's rules on confidentiality (89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department) to:
- 1) the parents (unless parental rights have been terminated or the Department has filed a petition seeking the termination of parental rights);
 - 2) the putative father, if he is participating in planning for the child;
 - 3) the purchase of service providers, including the foster parents or relative home caretakers. Foster parents or relative home caretakers will receive copies of the child's portion of the service plan and will receive other portions of the plan when they have successfully completed training prescribed by the Department. Such training will consist of topics related to the service planning and review process, including an overview of the participants, positive communication, especially in confrontational situations, confidentiality requirements and limitations, preparation for visits and reunification;
 - 4) the child invited to the case review;
 - 5) appropriate Department staff;
 - 6) the guardian ad litem and legal representative of the child; and
 - 7) the Juvenile Court when the court has jurisdiction. The initial service plan must be submitted to the court within 45 days after a child's placement. The most current revised service plan prepared within the prior six months must be submitted to the court at least 14 days in advance of the next permanency hearing

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as required by Section 2-28 of the Juvenile Court Act of 1987 [705 ILCS 405/2-28].

d) Revising the Service Plan

The service plan shall be revised:

- 1) if the current permanency goal is no longer appropriate;
- 2) if the current service plan does not address the child's needs;
- 3) within six months of establishing the original service plan;
- 4) at least every six months thereafter.

Section 305.60 Case Review System

a) The Case Review System

- 1) The Department has a case review system for all the children and families it serves. This case review system has two components: the administrative case review and the regular six month case review. Administrative case reviews are conducted for children living in foster family homes, relative homes, group homes, child care institutions, or detention, correctional, mental or physical health related facilities. In addition, the Department may elect to conduct administrative case reviews on other groups of children as fiscal and staffing resources permit.
- 2) Regular six month case reviews are conducted for all other children and families served by the Department.

b) Frequency of Case Reviews

The first administrative case review shall be conducted within 45 days from the day the child entered substitute care. All subsequent case reviews, whether an administrative case review or a regular six month review, are conducted on every case at least once each six months unless a dispositional hearing conducted by a court or a court approved panel was held the month prior to a scheduled case review. In this instance, the dispositional hearing shall replace the case review.

c) Purpose of Case Reviews

Case reviews are conducted in order to:

- 1) decide whether the Department's continuing intervention is necessary;
- 2) decide whether services, including placement services, are necessary and appropriate;
- 3) identify services needed but which are not being provided to the child or family;
- 4) assess the disability status of a child to determine the need for and/or appropriateness of specialized services;
- 5) review the appropriateness of the child's educational placement and update the child's educational progress;
- 6) decide whether the Department, the service providers, the family, the substitute care provider, if any, and the child are complying with the service plan and, if they are not complying, whether changes in the service plan are needed;

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- 7) decide whether there is progress to resolve the child and family's problems and whether the progress is satisfactory;
 - 8) decide whether the projected month for achieving the permanency goal should be changed;
 - 9) review and change the permanency goal (if appropriate);
 - 10) review and finalize the service plan for the next six month period; and
 - 11) provide the opportunity for parents and the children (if participating in the planning) to understand and discuss the plan and know what is expected of them.
- d) Administrative Case Reviews
- 1) Administrative case reviews shall:
 - 1) be convened by a staff member from the Department's Division of Administrative Case Review;
 - 2) include the worker and/or supervisor from the Department and/or the substitute care provider agency which has case responsibility for both the children and the family;
 - 3) be open to the participation of the children's parents and their representatives. However, if parents are known to be violent and potentially dangerous to other participants in the review, they will be excluded. If the Department has filed a petition seeking the termination of parental rights, these parents will not be invited to the review;
 - 4) be open to the participation of children 7 years of age or older who are determined able to participate without excessive harm when considering their age, maturity, circumstances, and understanding;
 - 5) be open to the participation of the foster parents in the child's section of the review. Foster parents may be able to participate in other segments of the review if they have successfully completed training on the case review system and such participation is not prohibited by the confidentiality provisions of 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department, and when such participation would promote achievement of the purpose of the review;
 - 6) be open to the participation of the guardian ad litem and legal representative of the child for the child's section of the review. The guardian ad litem and legal representative may participate in other segments of the review in accordance with the confidentiality provisions of 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department;
 - 7) be conducted in the office serving the parent's county of residence, if known and within the State of Illinois, unless the parent agrees to travel to another office; and
 - 8) focus on whether children should be returned to their parents' homes or whether another permanent home should be sought.
- e) Notice of Administrative Case Reviews

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With the exception of 45 day initial reviews for which notices will be given in the most expeditious manner possible, written notice of the date, time, place and purpose of the administrative case review shall be given at least 14 days prior to the scheduled review to the following:

- 1) the parents. The notice shall also inform them of their rights to bring a representative with them to the review;
 - 2) the child, if participating in the review. The child's participation shall depend on the child's maturity and ability to contribute and benefit from participation;
 - 3) the child's foster parents or relative caretaker;
 - 4) the purchase of service provider agency (if applicable); and
 - 5) the child's legal representative.
- f) Within seven days after the completion of the administrative case review, the Department will provide written reports on the results of the administrative case review. A copy of the current service plan and the written report shall be sent to the following:
- 1) the child, if invited to the administrative case review;
 - 2) the parents; and
 - 3) subject to the confidentiality provisions of 89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department, the guardian ad litem and legal representative for the child and any other person who attended the administrative case review.

g) Regular Case Reviews

Regular case reviews are conducted by the worker responsible for the case. The parents and/or the child (if participating in the review) are expected to be present before a case review is conducted. A service plan shall be completed during the case review.

Section 305.70 Roles and Responsibilities of the Administrative Case Reviewer

- a) The administrative case reviewer has the responsibility and authority to manage the case review process, which includes:
 - 1) excluding or limiting participation, as needed, to those with a right to share in the process, or excluding or limiting participation of any individual where necessary to promote the achievement of the purposes of the review;
 - 2) convening and conducting a review in such a way as to encourage discussion and participation while respecting the rights of all participants;
 - 3) maintaining the focus of the group on the service plan with good time management; and
 - 4) advising clients and other participants of their rights and providing an explanation of the purposes of case planning and the review process.
- b) The administrative case reviewer shall ensure that the review is congruent with Department rules and procedures and good child welfare

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practice and in compliance with 42 U.S.C. 675 and any consent decree affecting Department practice. This responsibility includes:

- 1) ensuring that the purposes of the administrative case review are carried out;
- 2) determining that the goal and the evaluation of progress are consistent with the facts of the case as presented at the administrative case review, that the outcomes, tasks and time frames are appropriate for the goal, and amending or changing the case plan accordingly; and
- 3) Convening administrative case reviews sooner than the regularly scheduled six month case reviews when the facts of the case indicate the need for a review.

Section 305.80 Decision Review

- a) When a service provider, including foster parents or relative caretakers, or the child's caseworker with supervisory approval, disagrees with any portion of the service plan, including any amendments made by the administrative case reviewer, the provider will be entitled to a review of the issue.
- b) Requests for a review shall be directed, within 5 working days after the administrative case review, to the Administrator of the Administrative Hearings Unit.
- c) A decision review conference shall be held within 10 working days after the receipt of the request. A final decision will be made by the person appointed by the Director of the Department or designee, within 10 working days after the conference.
- d) Except when an issue affects compliance with a court order or the residual rights of parents, implementation will be stayed until the decision review conference is held. The residual rights of parents as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] include the rights to visitation, to consent to adoption and to determine the minor's religious affiliation.
- e) If changes to the service plan are required by the decision review, copies of the changes will be sent to all those who are entitled to a copy of the service plan with a notice of the specific changes made, the reason for the changes and a statement of the right to appeal any such changes.
- f) When children and/or parents disagree with any portion of the service plan, they may request a hearing in accordance with 89 Ill. Adm. Code 337, Service Appeal Process.

Section 305.90 Parent-Child Visitation (Repealed)**Section 305.100 Evaluating Whether Children in Placement Should Be Returned Home**

- a) When deciding whether children in placement should be returned home to

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their parent's care, the Department shall consider whether the parents show an interest in the children's well-being. The Department shall consider the following as demonstrations of a lack of interest in the children's well-being and as good reasons to continue in placement. When parents:

- 1) continually miss visits with children; or
 - 2) continually upset children during visitation by verbal abuse, eliciting guilt, or by making unrealistic promises; or
 - 3) continually miss appointments with Department staff; or
 - 4) continually miss appointments with service providers; or
 - 5) fail to respond to the services offered; or
 - 6) fail to respond to instruction and assistance provided by a homemaker; or
 - 7) fail to remedy housing or housekeeping standards that are a threat to health or safety or to seek suggested economic resources when lack of resources is a major barrier; or
 - 8) otherwise fail to attain the minimum parenting standards as defined in Section 305.2 or as determined by the Juvenile Court.
- b) The Department shall not be persuaded to return children home if parental concern for the child is shown only by:
- 1) occasional sporadic visits and contacts;
 - 2) elaborate or expensive gifts on holidays or birthdays; or
 - 3) statements of concern for the children which are not supported by actions consistent with their safety and well-being or by preparations for their return home.

Section 305.110 Termination of Parental Rights

Some families are unable to achieve minimum parenting standards, despite comprehensive services and support from the Department. The Department shall seek the filing of a petition in court by the local State's Attorney for termination of parental rights, providing a child 14 years of age or older consents to adoption or a child, if under age 14 is able to accept another permanent family, when one of the grounds for termination of parental rights appears to exist, as specified in paragraph 1501(D) of the Adoption Act (Ill. Rev. Stat., 1991, ch. 40, par. 1501 et seq.). The final decision as to the actual filing and prosecution of a termination of parental rights case rests solely with the local State's Attorney.

Section 305.120 Planning for the Termination of Services

- a) Planning for the termination of services is an integral part of all service planning. From its earliest contacts with children and families, the Department shall focus on when and how services to the children and families shall end. In addition, when the Department is legally responsible for a child, the Department shall also focus on when and how the child shall be discharged from the Department's custody or guardianship.

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- b) If the child will be returned home from substitute care, the Department shall provide follow-up services for at least 90 days. These services shall consist of regularly scheduled telephone contacts, home visits, and family adjustment counseling if needed.
- c) If the child will not be returned home from substitute care or the child will not be released from the Department's guardianship, but the permanency goal has been achieved and the child's situation is stable, Department intervention shall be reduced to the minimum possible. In addition, children in substitute care will continue to be subject to case reviews in accordance with Department policy.

Section 305.130 The Department's Role in the Juvenile Court

- a) The Department as an Advocate

1) The Department shall promote a partnership between the Juvenile Court and the Department. Since the Department is primarily responsible for providing public child welfare services to children and families, it shall make the Juvenile Court aware of the mission of public child welfare services. Furthermore, the Department shall advise the Juvenile Court of the Department's planning for the children and families it serves and of their progress toward those goals.

- 2) When in the Juvenile Court, the Department shall act as an advocate for children for whom the Department is legally responsible and their families and shall advise the Juvenile Court to keep families together in all instances when it is consistent with the children's safety and well-being. In those instances when children must be removed from their parent's care, the Department shall advise the Juvenile Court to reunite children for whom the Department is legally responsible with their families as soon as returning home is consistent with their safety and well-being. Finally, when it is clear to the Department that the child's parents are unwilling or unable to attain the minimum parenting standards, the Department shall urge the Juvenile Court that a new, permanent, home for these children is needed as soon as they are ready to accept another home because of the urgency of the situation from the child's perspective.

- b) Juvenile Court Reviews

When the Department has court ordered legal responsibility for a child, the Department shall request Juvenile Court hearings when:

- 1) returning a physically abused or neglected child to the parent's home;
- 2) required by the Juvenile Court Act;
- 3) required by the Adoption Assistance and Child Welfare Act of 1980; and
- 4) for an Indian child, required by the Indian Child Welfare Act as explained in Part 307, Indian Child Welfare Services.

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Section 305.140 Compliance With the Client Service Planning Requirements

- a) The Department shall develop a monitoring and reporting mechanism to evaluate the extent of compliance with its client service planning requirements. At the minimum, the Department shall monitor:
- 1) the permanency goal for each child;
 - 2) the planned date of achievement of the permanency goal;
 - 3) the extent of progress toward the permanency goal; and
 - 4) the actual date the permanency goal was achieved.
- b) These reports shall also be used to measure the effectiveness of child welfare services in the different subdivisions of Illinois and to plan statewide and local service initiatives.

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- 1) Heading of the Part: Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services

- 2) Code Citation: 89 Ill. Adm. Code 431

- 3) Section Numbers: Proposed Action:
 431.30 Amend
 431.60 Amend
 431.80 Amend
 431.85 New

- 4) Statutory Authority: 325 ILCS 5 and 20 ILCS 505 as amended by Public Acts 90-15 and 90-75.

- 5) A Complete Description of the Subjects and Issues Involved: Section 431.30, Maintenance of Records, has been amended to add a three year retention schedule for unfounded reports involving the death of a child, sexual abuse, or serious physical injury of a child. This has been added per Public Act 90-15.

Section 431.60, Subject Access to Records of Child Abuse and Neglect Investigations, has been amended to allow subjects of a report access to unfounded reports as specified in new subsection (b) of Section 431.60, which allows subjects access to unfounded reports within 60 days after notification that the report was unfounded. This was added per Public Act 90-15.

The following subsections of Section 431.80, Disclosure of Records of Child Abuse and Neglect Investigations, have been amended as follows:

- (a) Subsection (a) now specifies that unfounded reports may only be made available to the Child Protective Unit when investigating a subsequent report involving a child named in the unfounded report. This was added per Public Act 90-15.

- (m) In subsection (m), law enforcement officers have been qualified to mean "Federal, State, and local law enforcement officers". This change was made to comply with Federal regulations in order to clarify that Federal law enforcement officers were included.

- (n) Subsection (n) has been amended to include other professionals who must be reported to the Illinois Department of Professional Regulation for failure to report child abuse or neglect or when they have been named as perpetrators of child abuse or neglect.

- (t) New subsection (t) has been added to allow child death review teams access to child abuse/neglect information.

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(u) New subsection (u) has been added to include the general public as having access to information as specified in the new Section 431.85 as described below.

Section 431.85, Public Disclosure of Information Regarding the Abuse or Neglect of a Child, has been added per Public Act 90-75.

- 6) Will these proposed rules replace an emergency rule currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed rules contain incorporations by reference? No
- 9) Are there any proposed amendments to this Part pending? No
- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jerry B. Crabtree
Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station #65
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983
TTY: (217) 524-3715
Internet: ORPINFO@pop.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

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- 13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendmentst begin on the next page.

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TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER f: GENERAL ADMINISTRATION

PART 431

CONFIDENTIALITY OF PERSONAL INFORMATION
 OF PERSONS SERVED BY THE DEPARTMENT
 OF CHILDREN AND FAMILY SERVICES

Purpose	
431.15	Definitions
431.20	Maintenance of Records
431.30	Required Consents Prior to Disclosure of Personal Information
431.40	Client Access to Records Which Contain Personal Information
431.50	Subject Access to Records of Child Abuse and Neglect Investigations
431.60	Denial of Requests to Access Information
431.70	Disclosure of Records of Child Abuse and Neglect Investigations
431.80	Public Disclosure of Information Regarding the Abuse or Neglect of a Child
431.90	Disclosure of Personal Information Without Consent
431.100	Disclosure of Information of a Mental Health Nature
431.110	Disclosure of Information Regarding Acquired Immunodeficiency Syndrome (AIDS)
431.120	Removal of Records Prohibited
431.130	Impoundment of Records by the Office of the Inspector General
431.140	Applicability of This Part

AUTHORITY: Implementing Section 35.1 of the Children and Family Services Act [20 ILCS 505/35.1], the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110], Sections 11 and 11.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/11 and 11.1], the AIDS Confidentiality Act [410 ILCS 305], and the Protection and Advocacy for Mentally Ill Persons Act [405 ILCS 45]; and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5] and Section 11.1 of the Abused and Neglected Child Reporting Act [325 ILCS 5/11.1].

SOURCE: Adopted and codified at 5 Ill. Reg. 7815, effective August 3, 1981; amended at 6 Ill. Reg. 15517, effective January 1, 1983; amended at 10 Ill. Reg. 21647, effective December 31, 1986; amended at 11 Ill. Reg. 12613, effective August 1, 1987; amended at 13 Ill. Reg. 2407, effective March 1, 1989; amended at 15 Ill. Reg. 24, effective December 31, 1990; recodified at 18 Ill. Reg. 7951; amended at 19 Ill. Reg. 17082, effective December 15, 1995; amended at 22 Ill. Reg. _____, effective _____.

Section 431.30 Maintenance of Records

- a) The Department, through its institutions, facilities and various offices shall maintain a record on all persons receiving services from

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the Department, either directly or through the purchase of services, and on all persons for whom a child abuse or neglect report has been indicated, unfounded, or for whom a decision about the report has not yet been made. Upon request from the subjects of the report, the Department may keep records of unfounded reports of child abuse or neglect to prevent future harassment of the subjects. Additionally, in accordance with Section 7.17 of the Abused and Neglected Child Reporting Act [325 ILCS 5/7.17], the Department may maintain case records containing identifying information related to child abuse or neglect reports.

- b) All identifying information about any indicated report held in the State Central Register or the local index shall be expunged no later than 5 years after the report was indicated unless a different retention period is specified in this Section. However, if a subsequent report involving any of the same subjects, or the siblings or offspring of the child subjects was indicated, identifying information about the subjects of all indicated reports designated as Priority One and Propriety Two in Appendix B of 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect) shall be maintained in the State Central Register and the local index in accordance with the retention period specified in this Section.
- c) All identifying information about any indicated report involving the death or sexual penetration of a child reported to the State Central Register or local index ~~as of December 31, 1990~~ shall be retained for fifty years.
- d) All identifying information about any indicated report involving the serious physical injury, sexual molestation or sexual exploitation of a child reported to the State Central Register ~~as of December 31, 1990~~ shall be retained for twenty years.
- e) All identifying information about any unfounded report involving the death of a child, the sexual abuse of a child, or serious physical injury to a child shall be retained in the State Central Register for three years from the date the final finding report is entered into the State Central Register. All identifying information about any unfounded report made by a mandated reporter involving a report designated as Priority One or Two in Appendix B of 89 Ill. Adm. Code 300, Reports of Child Abuse or Neglect shall be retained in the State Central Register for 12 months from the date the final finding report is entered into the State Central Register. ~~In addition, all identifying information about an unfounded report made by a nonmandated reporter involving a death allegation in Appendix B of 89 Ill. Adm. Code 300, Reports of Child Abuse or Neglect, shall be retained in the State Central Register for 12 months from the date the final finding report is entered into the State Central Register.~~
- f) All identifying information about any unfounded report made by a mandated reporter involving a report designated as Priority Three in Appendix B of 89 Ill. Adm. Code 300, Reports of Child Abuse or Neglect shall be retained in the State Central Register for 60 days

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from the date the final finding report is entered into the State Central Register.

- g) All identifying information about any unfounded report made by a nonmandated reporter involving a report designated as Priority One or Two in Appendix B of 89 Ill. Adm. Code 3007 (Reports of Child Abuse or Neglect) shall be retained in the State Central Register for 30 days from the date the final finding report is entered into the State Central Register.

- h) All such records shall be of a confidential nature and shall not be made available to the general public except as provided for in Section 431.85.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 431.60 Subject Access to Records of Child Abuse and Neglect Investigations

- a) Subjects, including minor subjects, of reports of suspected abuse or neglect are allowed access to the child abuse/neglect investigative records which have been indicated or unfounded as specified in subsection (b) of this Section which are retained as evidence of false reporting are allowed access to the child abuse/neglect--investigative record. However, no information will be released during the pendency of an investigation before the Department has determined whether the report is indicated or unfounded, except as allowed in Section 300.160 of 89 Ill. Adm. Code 3007 (Reports of Child Abuse and Neglect) or for purposes of a fair hearing requested prior to the final determination of indicated or unfounded. In addition, the identity or location of persons reporting or cooperating in such investigations shall not be provided to any subject, unless a subject appeals an indicated finding and an administrative law judge determines that the lack of such information would prejudice the appellant's case or violate due process of law principles. In addition, the Department may seek a court order prohibiting the release to the subjects of a report of any information deemed likely to be harmful to them. The circumstances under which the administrative law judge will be allowed to order the disclosure to the appellant of the names of reporters or other persons cooperating in the investigation include, but are not limited to, the following:

- 1) Testimony must have been offered by the appellant that the reporter or collateral witnesses demonstrated bias, motive, reason to fabricate or that the reporter or collateral witnesses have other information relevant to the testimony of the reporter or collateral witness.
- 2) The appellant must provide the administrative law judge in private with the names of the persons persons believed to be the reporter or collateral witnesses witnesses.

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- 3) The individual presenting the Department's case at the hearing shall then disclose the identity of the person(s) to the administrative law judge in an in-camera setting.

- 4) If the reporter or collateral witnesses witnesses is the same as the persons person named by the appellant, then the identity will be disclosed to the appellant. Otherwise, no disclosure will be made. If the identity of the reporter is disclosed, a written notice shall be sent to the reporter advising of the disclosure of the individual's reporter's identity.

- b) Subjects of reports of suspected abuse or neglect are allowed access to the child abuse/neglect investigative records that:

- 1) have been unfounded, provided the subject requests the report within 60 days after receipt of notification that the report was unfounded; or

- 2) are retained as evidence of false reporting.

- cb) The guardian of the person or guardian ad litem of a child who is the subject of a report may have access to the investigative record, as limited in subsection (a) above.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 431.80 Disclosure of Records of Child Abuse and Neglect Investigations

Record information about child abuse and neglect investigations may be shared with the following individuals without the consent of the subjects of the report.

- a) Department staff in the furtherance of their responsibilities under the Abused and Neglected Child Reporting Act or for the purpose of completing background investigations on persons or agencies licensed by the Department or through whom the Department provides child welfare or--day--care services, and on court appointed special advocates, or for purposes of an investigation conducted by the DCFS-Office of the Inspector General under Section 35.5 of the Children and Family Services Act. Unfounded reports may be made available to the child protective service unit only when an investigator in the unit is investigating a subsequent report of suspected abuse of neglect involving a child named in the unfounded report;

- b) Department and purchase of service provider staff assessing children and families in which abuse or neglect has occurred or providing services to these children and families;

- c) Department staff verifying whether a child care facility subject to Department licensing is owned or operated by known perpetrators of child abuse or neglect or whether adult members of the household of a family home in which a child care facility operates, or employees or volunteers who have access to work-directly-with children, have been

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- found to be the perpetrators of child abuse or neglect;
- d) Law enforcement officers investigating a report of suspected child abuse or neglect, known or suspected involvement with child pornography, known or suspected criminal sexual assault, known or suspected criminal sexual abuse, or any other sexual offense when children are alleged to be involved;
- e) The Department of State Police when administering the provisions of the Intergovernmental Missing Child Recovery Act of 1984 [325 ILCS 40];
- f) State's Attorneys who need access to child abuse or neglect information in the course of their assigned duties;
- g) Physicians examining a child where abuse or neglect is suspected;
- h) A court, upon its finding that access is necessary to determine an issue before the court. Unless the court determines that disclosure of the information in open court is necessary, such access is limited to an inspection by the judge in his chambers or in a courtroom free of spectators;
- i) A grand jury which determines that access is necessary to conduct its official business;
- j) Persons who have been authorized by the Director, in writing, to review the records for audit or research purposes or to review such records in the regular course of the Department's business. Such access shall be time limited or limited to specific staff functions;
- k) Persons authorized to take temporary protective custody only if the information is needed to determine whether to take the child into temporary protective custody;
- l) A person who has legal responsibility or authorization to care for, treat, or supervise a child or a parent, guardian, or other person responsible for the welfare of a child who is the subject of a report;
- m) Federal, state or local law enforcement officers, coroners or medical examiners, physicians, courts, school superintendents and child welfare agencies in other states who are responsible for child abuse or neglect investigations or background investigations. Such information shall be requested only for the purpose of aiding the investigation, assessment or service provision or background investigation in the requesting state;
- n) The Illinois Department of Professional Regulation, when determining whether a mandated reporter who failed to report child abuse or neglect should be subject to license suspension or revocation, or when determining whether to refuse to issue, suspend or revoke the license of the following classes of persons due to the person having been named a perpetrator in an indicated report of child abuse or neglect:
- 1) Physicians,
 - 2) Physician Assistants,
 - 3) Dentists,
 - 4) Registered and Practical Nurses,
 - 5) Optometrists,
 - 6) Physical Therapists,

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- 7) Podiatrists,
 - 8) Psychologists,
 - 9) Social Workers, or
 - 10) Athletic Trainers,
 - 11) Acupuncturists,
 - 12) Dietitians and Nutrition Counselors,
 - 13) Hearing Care Professionals,
 - 14) Marriage and Family Therapists,
 - 15) Naprapaths (therapist of ligaments and connective tissue),
 - 16) Respiratory Therapists,
 - 17) Professional Counselors and Clinical Professional Counselors, and
 - 18) Speech-Language Pathologists and Audiologists;
- o) School superintendents and the State Board of Education when determining whether a teacher's certificate shall be suspended because the teacher has been named as a perpetrator in an indicated report of child abuse or neglect;
- p) A coroner or medical examiner who has reason to believe that a child has died as the result of abuse or neglect;
- q) The Director of a State-operated facility when an employee of that facility has been named as a perpetrator of an indicated report;
- r) Members of a multidisciplinary team in the furtherance of its responsibilities under this Act; or
- s) The operator of a licensed child care facility or a facility licensed by the Department of Human Services ~~Alcoholism and Substance Abuse~~ in which children reside when a current or prospective employee of that facility has been named as a perpetrator in an indicated child abuse or neglect report;
- t) Child death review teams in accordance with 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect), Section 300.165; or
- u) The general public as specified in Section 431.85 of this Part.
- (Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 431.85 Public Disclosure of Information Regarding the Abuse or Neglect of a Child

- a) *The Director or designee may disclose to the public information regarding the abuse or neglect of a child, if he or she determines that such disclosure is not contrary to the best interests of the child, the child's siblings, or other children in the household, provided one of the following factors is present:*
- 1) *the subject of the report has been criminally charged with committing a crime related to the child abuse or neglect report; or*
 - 2) *a law enforcement agency or official, a State's Attorney, or a judge of the State court system has publicly disclosed in a report, as part of his or her official duty, information*

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regarding the investigation of a report or the provision of services by the Department; or

- 3) an adult subject of the report has knowingly and voluntarily made a public disclosure concerning a Child Abuse and Neglect Tracking System (CANTS) report; or
 - 4) the child named in the report has been critically injured or has died.
- b) The following information may be disclosed:
- 1) the name of the alleged abused or neglected child;
 - 2) the current status of the investigation, including whether a determination of credible evidence has been made;
 - 3) identification of child protective or other services provided or actions taken regarding the child named in the report and the child's family as a result of the report;
 - 4) whether there have been past reports of child abuse or neglect involving this child or family, or both. Any such reports shall be clearly identified as being "Indicated", "Unfounded", or "pending".
 - 5) whether the Department has a current or past open service case with the family, and a history of what types of services have been, or are being, provided;
 - 6) any extraordinary or pertinent information concerning the circumstances of the report, if the Director determines such disclosure is consistent with the public interest.
- c) Any disclosure of information pursuant to this Section shall not identify the name of or provide identifying information regarding the source of the report.
- d) In determining whether disclosure will be contrary to the best interests of the child, the child's siblings, or other children in the household, the Director shall consider the interest in privacy of the child and the child's family and the effects that disclosure may have on efforts to reunite and provide services to the family.
- e) Except as it applies directly to the cause of the abuse or neglect of the child, nothing in this Section shall be deemed to authorize the release or disclosure of the substance or content of any psychological, psychiatric, therapeutic, clinical, or medical reports, evaluations, or like materials pertaining to the child or the child's family. Prior to the release or disclosure of any psychological, psychiatric, or therapeutic reports pursuant to this subsection, the Deputy Director of Clinical Services shall review such materials and make recommendations regarding its release. Any disclosure of information pursuant to this Section shall not identify the health care provider, health care facility or other maker of the report or source of any psychological, psychiatric, therapeutic, clinical, or medical reports, evaluations, or like materials.
- f) Regarding child abuse or neglect reports which occur at a facility licensed by the Department, only the following information may be disclosed or released:

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- 1) the name of the facility;
- 2) the nature of the allegations of abuse or neglect;
- 3) the number and ages of the child victims involved, and their relationship to the perpetrator;
- 4) actions the Department has taken to ensure the safety of the children during and subsequent to the investigation;
- 5) the final finding status of the investigation. [325 ILCS 5/11.1a]

(Source: Added at 22 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Permanency Planning

2) Code Citation: 89 Ill. Adm. Code 315

3) Section Numbers: Proposed Action:

315.10	New
315.20	New
315.30	New
315.40	New
315.45	New
315.50	New
315.60	New
315.70	New
315.80	New
315.100	New
315.110	New
315.120	New
315.130	New
315.140	New
315.150	New
315.160	New
315.200	New
315.205	New
315.210	New
315.215	New
315.220	New
315.225	New
315.230	New
315.235	New
315.240	New
315.245	New
315.250	New
315.300	New
315.305	New
315.310	New

4) Statutory Authority: 20 ILCS 505; 705 ILCS 405; 325 ILCS 5; 750 ILCS 50

5) A Complete Description of the Subjects and Issues Involved: These rules implement the permanency initiative legislation enacted by the General Assembly in 1997 through the following Public Acts: Public Acts 90-27 and 90-28 which primarily amended the Juvenile Court Act of 1987, the Children and Family Services Act, and the Adoption Act. These proposed rules replace the service planning components of 89 Ill. Adm. Code 305 (Client Service Planning) which is being repealed.

6) Will these proposed rules replace an emergency rule currently in effect?
No

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7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rules contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jerry B. Crabtree
Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station #65
Springfield IL 62701-1498
(217) 524-1983
TTY: (217) 524-3715
Internet address: ORPINFO@pop.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Child welfare agencies who contract with the Department.

B) Reporting, bookkeeping or other procedures required for compliance: Caseworkers must complete written service plans that must be filed with the juvenile court and others as specified in the rules.

C) Types of professional skills necessary for compliance: Casework skills necessary to conduct complex assessments of children who are placed in substitute care and their families, to engage families in helping relationships, to develop and monitor service plans, evaluate progress made by parents, and make decisions affecting the best interests of children.

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Rulemaking begins on the next page:

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TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER a: SERVICE DELIVERY

PART 315
 PERMANENCY PLANNING

SUBPART A: PRINCIPLES OF PERMANENCY PLANNING

Section	Purpose
315.10	Definitions
315.20	Best Interests, Health, and Safety of the Child
315.30	Accountability
315.40	The Need for a Permanent Home
315.45	Reasonable Efforts/Reasonable Progress
315.50	The Child's Sense of Time
315.60	The Critical Decisions
315.70	Components of the Permanency Planning Process
315.80	

SUBPART B: ASSESSMENT AND OTHER CASEWORK ACTIVITIES

Section	
315.100	Assessment
315.110	Worker Interventions and Contacts
315.120	Family Meetings
315.130	Developing the Service Plan
315.140	Distributing the Service Plan
315.150	Revising the Service Plan
315.160	Case Reviews and Court Hearings

SUBPART C: SELECTING THE PERMANENCY GOAL

Section	
315.200	Selection of the Permanency Goal
315.205	Return Home Within Five Months
315.210	Return Home Within One Year
315.215	Return Home Pending Status Hearing
315.220	Substitute Care Pending Court Determination on Termination of Parental Rights
315.225	Adoption
315.230	Guardianship
315.235	Independence
315.240	Cannot Be Provided for in a Home Environment
315.245	Concurrent Planning
315.250	Applicability of Reunification Services

SUBPART D: EVALUATION AND DECISIONMAKING

Section

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315.300	Evaluating Whether Children in Placement Should Be Returned Home
315.305	When Reunification Is Inappropriate
315.310	Termination of Services and Planning for Aftercare

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505], the Abused and Neglected Child Reporting Act [325 ILCS 5], the Adoption Assistance and Child Welfare Act of 1980, amending Section 475 of the Social Security Act (42 U.S.C.A. 670 et seq.), the Juvenile Court Act of 1987 [705 ILCS 405], and the Adoption Act [750 ILCS 501].

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____,

SUBPART A: PRINCIPLES OF PERMANENCY PLANNING

Section 315.10 Purpose

The purpose of this Part is to explain the principles and standards around which the Department centers its permanency planning and decisionmaking for children and families when children must be placed apart from their families.

Section 315.20 Definitions

"Administrative case review" means a review of permanency planning open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subjects of the review (pursuant to 42 U.S.C.A. 675). The administrative case review is also open to the participation of other professionals involved in assessing or treating the child, any legal representative of the parent or child, and the foster parents as specified in Section 316.60 (Administrative Case Reviews) of 89 Ill. Adm. Code 316 (Case Reviews, Court Hearings and Permanency Hearings).

"Best interest of the child" has been defined by law to include the following factors:

the physical safety and welfare of the child, including food, shelter, health, and clothing;

the development of the child's identity;

the child's background and ties, including familial, racial, cultural, and religious;

the child's sense of attachments, including:

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where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);

the child's sense of security;

the child's sense of familiarity;

continuity of affection for the child;

the least disruptive placement alternative for the child;

the child's wishes and long-term goals;

the child's community ties, including church, school, and friends;

permanence for the child;

the uniqueness of every family and child;

the risks attendant to entering and being in substitute care; and

the preferences of the persons available to care for the child.
[705 ILCS 405/1-3]

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Client service plan" means a written plan on a form prescribed by the Department that guides all participants in the plan of intervention toward the permanency goals for the children.

"Concurrent planning" means a process whereby the Department or its service provider works toward family reunification with a family whose children has been removed from the home while, at the same time, developing an alternative plan, if reunification with the family cannot be attained.

"Family" means one or more adults and children, related by blood, marriage or adoption and residing in the same household.

"Father" means a *man presumed to be the natural father of a child if:*

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he and the child's natural mother are or have been married to each other, even though the marriage is or could be declared invalid, and the child is born or conceived during such marriage; after the child's birth, he and the child's natural mother have married each other, even though the marriage is or could be declared invalid, and he is named, with his consent, as the child's father on the child's birth certificate pursuant to Section 12 of the Vital Records Act;

he and the natural mother have signed an acknowledgment of paternity in accordance with rules adopted by the Illinois Department of Public Aid under Section 10-17.7 of the Illinois Public Aid Code;

he and the child's mother have signed a petition to establish the parent and child relationship by consent of the parties in accordance with Section 6 of this Act.

A man can rebut a presumption of paternity before a court of jurisdiction [750 ILCS 45/5]. Father also means a man who adopts a child or has been determined by court or administrative adjudication to be the child's father.

"Guardian" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/Art. XI].

"Individual Treatment Plan (ITP)" or "Treatment Plan" as defined in 59 Ill. Adm. Code 132 (Medicaid Community Mental Health Services) means a written document developed by the appropriate service provider staff with the participation of the client with a mental illness and, if applicable, the client's guardian, which specifies the client's diagnosis, problems, and service needs to be addressed, the intermediate objectives and long-term goals for the services and the planned interventions for achieving these goals.

"Individualized Education Plan/Program (IEP)" means the document prepared by the local school district, as a result of a Multi-disciplinary Conference, that identifies the specific special education services that will be provided to the child. The IEP also includes education goals, services, frequency, quantity and duration. IEP is further defined in 23 Ill. Adm. Code 226 (Special Education).

"Individualized Family Service Plan (IFSP)" means a written working document developed for each child in order to facilitate the provisions of Early Intervention (EI) services. The IFSP is created

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by the family, an inter-disciplinary team, the core EI agency, and the case manager (service coordinator). The EI agency is responsible for coordinating the IFSP implementation.

"Minimum parenting standards" means that a parent or other person responsible for the child's welfare is able and willing to ensure that a child is healthy and safe, which includes ensuring that the child is adequately fed, clothed appropriately for the weather conditions, provided with adequate shelter, protected from physical, mental and emotional harm, and provided with necessary medical care and education required by law.

"Parents" means the child's legal parents whose rights have not been terminated and adoptive parents. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service, which is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or by a court of law.

"Rehabilitative services plan" means a written plan developed in accordance with 59 Ill. Adm. Code 132.155 (Medicaid Community Mental Health Services), which includes identification of the problems to be addressed, the rehabilitative services to be provided and the outcomes to be achieved for eligible clients served by the Department pursuant to the Abused and Neglected Child Reporting Act, the Children and Family Services Act or the Juvenile Court Act of 1987.

"Relative", for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, great-uncle, or great-aunt, or

is the spouse of such a relative, or

is the child's step-father, step-mother, or adult step-brother or step-sister through a current marriage.

Relative also includes a person related in any of the foregoing ways

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to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

"Service termination planning" means service planning that starts with the first contact with the family and which focuses on providing a smooth transition from Department guardianship or custody. It includes the receipt of child welfare services to discharge from guardianship or custody and the termination of Department funded services.

"Substitute care" means the care of children who require placement away from their families or private guardians. Substitute care includes foster family care, care provided in a relative home placement as defined in 89 Ill. Adm. Code 301 (Placement and Visitation Services), Section 301.80 (Relative Home Placement), care provided in a group home, care provided in a maternity center or a child care, mental health or other institution, and care provided in an independent living arrangement.

"Termination of parental rights" means a court order that relieves the legal parents of parental responsibility for the child and revokes all legal rights with respect to the child. The termination order also frees the child from all obligations of maintenance and obedience with respect to the legal parents.

Section 315.30 Best Interests, Health and Safety of the Child

- a) Best Interests, Health and Safety of the Child
- Permanency planning is an on-going process that first and foremost must consider the best interests, health and safety of the child in all planning decisions. Health and safety are the paramount factors that must be considered when determining the best interests of the child. This means that a child is or will be in a living arrangement that meets the placement selection criteria contained in 89 Ill. Adm. Code 301 (Placement and Visitation Services), and that protects the child's physical health and safety and promotes the child's emotional, medical, and developmental well-being. When evaluating the best interests of the child, the Department or its purchase of service provider shall consider the following factors as provided in the Juvenile Court Act:

- 1) the physical safety and welfare of the child, including food, shelter, health, and clothing;
- 2) the development of the child's identity;
- 3) the child's background and ties, including familial, racial, cultural, and religious, including the primary method and/or language of communication between the child and the biological parents or any other special communication needs;
- 4) the child's sense of attachments, including:

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- A) *where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);*
- B) *the child's sense of security;*
- C) *the child's sense of familiarity;*
- D) *continuity of affection for the child;*
- E) *the least disruptive placement alternative for the child;*
- 5) *the child's wishes and long-term goals;*
- 6) *the child's community ties, including church, school, and friends;*
- 7) *permanence for the child;*
- 8) *the uniqueness of every family and child;*
- 9) *the risks attendant to entering and being in substitute care; and*
- 10) *the preferences of the persons available to care for the child.*
[705 ILCS 405/1-3].
- b) The child's best interests and health and safety must be considered and documented throughout service intervention and during, but not limited to, the following activities:
- 1) investigation of allegations of abuse or neglect,
 - 2) completion of safety and risk assessments,
 - 3) completion of the comprehensive assessment,
 - 4) worker/client contacts,
 - 5) service planning,
 - 6) permanency goal selection,
 - 7) family meetings,
 - 8) administrative case reviews,
 - 9) legal screenings, and
 - 10) permanency hearings and other court proceedings.

Section 315.40 Accountability

Permanency planning must ensure accountability on the part of clients, the Department and other service providers through written documentation of the expectations and obligations of each of the parties to the service plan. This documentation must include:

- a) a desired permanency goal for each child served that is recorded in the service plan;
- b) identification of problems that must be resolved to achieve this status, including, when applicable, achievement of minimum parenting standards;
- c) identification of measurable changes or outcomes that will signify problem resolution;
- d) identification of what services the Department and other service providers will provide toward achieving the desired permanent living arrangement;
- e) identification of applicable time frames; and
- f) identification of any consequences to the client if the time frames

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are not met.

Section 315.45 The Need for a Permanent Home

- a) The Department recognizes that the best interest of children require that they have safe, permanent, secure, and nurturing homes for healthy psychological and physical development in order to mature to stable adulthood. Whenever it is determined to be in the best interest of the child, the Department will make reasonable efforts to preserve family life and to stabilize children's homes and to assist in the solution of problems that are likely to result in the abuse, neglect, or exploitation of children.
- b) When children must be removed from a parent to reduce or prevent harm to the children and the other parent is not a placement option, the Department will make reasonable efforts to reunite families as quickly as is consistent with the children's best interests, safety and well-being. When children and parents cannot be reunited because the parents are unable or unwilling to care for the children and therefore cannot achieve the minimum parenting standards, the Department will make reasonable efforts to find other permanent homes for children in a timely fashion consistent with the child's sense of time and need for physical safety and emotional security.

Section 315.50 Reasonable Efforts/Reasonable Progress

- a) The Department shall ensure and document that reasonable efforts were made to prevent or eliminate the need to remove a child from the child's home and to reunify the family when temporary placement of the child occurs. However, it may be that, due to the individual circumstances of the family and the child's best interests, safety and well-being, no efforts reasonably can be made to maintain the child in the child's home or to reunify the family. Reasonable efforts shall not be required if there exists any of the grounds for termination of parental rights as described in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible). Such a determination that no efforts reasonably can be made must be documented. If no efforts reasonably can be made to safely prevent or eliminate the removal of the child, the child shall be taken into protective custody. If no efforts reasonably can be made to reunify the family, the Department will seek alternative permanency planning that may involve termination of parental rights as described in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible).
- b) Efforts by the Department or purchase of service agency to prevent or eliminate the removal of a child or to reunify a family must be accompanied by reasonable progress on the part of the child's parents. Reasonable progress by the parents is demonstrated by a change in the

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behaviors or circumstances that threaten the child's best interests, safety or well-being, and are the reasons why the Department is either considering removal of the child from the home or has removed the child from the home. Examples of reasonable progress or lack of progress by the parents are described in Section 315.400 (Evaluating Whether Children in Placement Should Be Returned Home). In the absence of such reasonable progress by the child's parents, it is not reasonable for the Department or purchase of service agency to continue efforts to preserve the family.

Section 315.60 The Child's Sense of Time

- a) The Department recognizes that children have a different sense of time than adults. What seems like a short family disruption or a brief separation to adults may be a very painful and intolerably long period for children. In general, younger children are less able to tolerate periods of separation than older children. For this reason, the Department shall act promptly using the best information available when dealing with children and their families.
- b) The Department believes that aggressive planning with an emphasis on decisionmaking, followed by the actions needed to carry out those decisions, will secure permanent homes for children. Therefore, the Department requires permanency planning directed toward a permanency goal beginning from the earliest contacts with children and families. Through permanency planning the Department strives to assure that children are in permanent homes as quickly as is consistent with their safety and well-being, while recognizing the urgency caused by the child's sense of time.

Section 315.70 The Critical Decisions

Although all Department decisions affecting children and families are important, the Department identifies the following decisions, which require approval of the casework supervisor, as the most critical ones affecting children and families:

- a) deciding whether services can prevent placement away from parents or primary parent figure or deciding whether to remove children from the home of parents or primary parent figure;
- b) deciding whether to recommend the return of children to the home of parents or primary parent figure from a placement away from parents or primary parent figure;
- c) deciding whether to decrease the frequency or the duration of parent and/or sibling visits with the child and whether the visits should be supervised;
- d) deciding whether to change children's placements;
- e) deciding whether to seek termination of parental rights and seek an alternate permanent home;
- f) deciding if children are prepared for partial or total independence;

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- or
- g) deciding whether children shall be placed apart from siblings who are also placed in substitute care.

Section 315.80 Components of the Permanency Planning Process

- a) The permanency planning process begins when the first contact is made with the child and family. The permanency planning process continues until the health and safety of the child are assured and Department-funded services terminated.
- b) Activities that must occur as part of the permanency planning process include:
 - 1) a diligent search for missing parents as described in 89 Ill. Adm. Code 332 (Diligent Searches Conducted by the Department of Children and Family Services), when necessary;
 - 2) an assessment as described in Section 315.100;
 - 3) worker intervention and contacts as described in Section 315.110;
 - 4) family meetings as described in Section 315.120;
 - 5) development and implementation of a service plan as described in Section 315.130;
 - 6) selection of a permanency goal as described in Sections 315.200 through 315.240;
 - 7) the use of concurrent planning as described in Section 315.245, when appropriate;
 - 8) evaluating whether families are substantially fulfilling their obligations under the service plan and correcting the conditions that led to the placement of their children to enable the children to be returned home as described in Section 315.300;
 - 9) consideration of alternatives to reunification as described in Section 315.305;
 - 10) preparation for termination of Department services and aftercare planning as described in Section 315.310; and
 - 11) preparation for, attendance at, and participation in administrative case reviews, court hearings, and permanency hearings, as described in 89 Ill. Adm. Code 316 (Case Reviews and Court Hearings).

SUBPART B: ASSESSMENT AND OTHER CASEWORK ACTIVITIES

Section 315.100 Assessment

Assessment consists of an initial assessment of a child and family to determine whether a case should be opened and services delivered, a comprehensive assessment to determine the needs of the family to provide the appropriate intervention and services, and an ongoing assessment conducted throughout the duration of time that the children and family are receiving services. Initial assessment provides a baseline of family strengths and needs by which a caseworker and supervisor can evaluate subsequent progress.

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a) Initial Assessment

The initial assessment consists of a preliminary assessment prior to case opening in order to:

- 1) assess the health and safety of the children to determine whether the child can safely remain in his or her current living arrangement;
- 2) identify the level of risk of harm to the children in the family, develop and implement a safety plan (if at any time the aggravating circumstances appropriate for expedited termination of parental rights exist, the worker shall immediately follow the instructions for expedited termination of parental rights contained in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible));
- 3) identify what interventions and services can be provided to address the causes of abuse and neglect, and assure a child's health and safety without placement;
- 4) identify any needs of an emergency nature, including food, shelter, and clothing;
- 5) begin to identify and preliminarily select placement resources that meet the placement selection criteria contained in 89 Ill. Adm. Code 301 (Placement and Visitation Services); and
- 6) identify any special communication needs the child may have, in addition to identifying the communication needs specified by the child's parents and/or legal guardians.

b) Comprehensive Assessment

The comprehensive assessment is an assessment completed no later than 30 calendar days following case referral or case opening. During the comprehensive assessment period the worker shall conduct at least weekly face-to-face visits with the parent and any children remaining in the custody of the parent. When the parent cannot be located, a diligent search shall be made to locate the parent, as required by 89 Ill. Adm. Code 332 (Diligent Searches Conducted by the Department of Children and Family Services), and the parent's portion of the comprehensive assessment shall be completed within 30 days after the parent is located.

- 1) The comprehensive assessment shall consist of any part of the initial assessment that has not yet been completed and the following tasks:

- A) completion of a social history of the child and family to determine the strengths and needs of the family;
- B) continued assessment of the health and safety and level of risk to the children in the family (if at any time the aggravating circumstances appropriate for expedited termination of parental rights exist, the worker shall immediately follow the instructions for expedited termination of parental rights.);
- C) assessment of the parents as it relates to their ability to

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care for the child, including referral for diagnostic mental health and substance abuse assessment, when indicated;

D) for children for whom the Department has legal responsibility, the comprehensive assessment shall also include:

- i) a compilation of the medical and immunization history of the child and, where available, relevant medical history of the child's parents;
 - ii) location of missing or non-custodial parents and other relatives and their relationship to the family;
 - iii) a preliminary, age appropriate substance abuse screening of the child, if indicated by any other component of the assessment;
 - iv) a basic educational screening including identification of the child's current school and grade level, educational history, and identification of any educational goals and needs, including the need for any further educational testing or assessments; and
- 2) In addition, for those children, who are placed in substitute care, the comprehensive assessment shall also include:

- A) an initial health screening by a qualified medical provider in accordance with EPSDT standards, within 24 hours after placing the child in protective custody, of sufficient scope to permit the Department or purchase of service agency to ascertain enough about the current health of the child to identify:
 - i) any health needs requiring immediate attention; and
 - ii) any health information needed to make an informed placement decision;

- B) a comprehensive health screen within 21 days after a child's placement in foster care that includes a physical, dental and mental health status of all children and a developmental screening on all children not yet of school age conducted by medical personnel and followed by more intensive evaluation as indicated or recommended. All children taken into Department custody are to be enrolled in Health Works within the first 21 days after the Department assumes custody.

c) Ongoing Assessment

Ongoing assessment continues throughout the life of the case until service termination and shall be used to guide the Department or purchase of service agency in developing an appropriate case plan and guide decisionmaking concerning the Department's or purchase of service agency's reasonable efforts and the client's reasonable progress to correct conditions and/or behavior that threaten a child's health and safety. The ongoing assessment shall consist of reassessing safety and risk and the reapplication of any additional screenings as described in subsection (b) whenever the facts of the case indicate the need, until termination of services.

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Section 315.110 Worker Interventions and Contacts

This Section applies to caseworker interventions and contacts made during the delivery of child welfare services and does not include the interventions and contacts required by child protective investigative staff during the course of child abuse and neglect investigations. To meet any of the intervention and contact requirements described in this Section with hearing impaired clients or limited non-English speaking clients, the worker must be able to facilitate communication using the client's primary mode of communication (e.g., fluency in the client's language or the use of foreign or sign language interpreters; e.g., braille or taped communications for persons with visual impairments, etc.).

- a) Initial Intervention and Contact by Caseworker
 - 1) The assigned caseworker or person assigned by the supervisor, if the assigned caseworker is unavailable, must attend the shelter care hearing in court.
 - 2) The assigned caseworker must attempt face-to-face intervention and contact with the family in the home within five working days after the shelter care hearing or case assignment, whichever is earlier, unless the caseworker and supervisor believe, based upon the health, safety, and best interests of the child, that it is necessary to attempt contact sooner. If the family is unavailable, the caseworker shall make a second attempt within one working day after the failed attempt. If that attempt is also unsuccessful, the caseworker shall conduct a diligent search for the family.
- b) Ongoing Intervention and Contact
 - 1) With Families

The families of children in placement shall be seen by the assigned caseworker at least monthly or more frequently as might be specified by the service plan unless parental rights have been terminated.
 - 2) With Children

The assigned caseworker shall see any child in substitute care in the child's living arrangement at least once every two weeks for the first month immediately following initial placement or a change in placement and at least once every month thereafter. When visiting children in substitute care, the caseworker must interview verbal children out of the presence of the caregiver.
 - 3) The above frequencies shall be followed, unless the supervisor, based on the assessment, determines and documents in the service plan, in writing, that the service plan requires more frequent or less frequent contact.
- c) Interventions and Contacts Following Reunification

During all interventions and contacts following reunification, the caseworker must see the child outside the presence of the parent.

 - 1) Initial Intervention and Contact

Following the return home of a child who has been in substitute

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- care, an initial face-to-face intervention with the child and parent must be made via a visit in the home by the assigned caseworker within 24 to 72 hours after the child's return home. The timing of the visit will be based upon the safety plan completed when the child is returned home.
- 2) First Month

Following the initial visit, weekly or more frequent intervention and contact, as determined by the supervisor, with the child and parent in the home is required for the first month following reunification. At least two of the visits during this first month after reunification must be unannounced.
- 3) Ongoing

Frequency of intervention and contact subsequent to the first month of reunification shall be at least monthly until such time as safety and risk assessments indicate that there are no longer sufficient safety or risk factors present to require continued contact.
- d) Contact with Foster Families/Relative Caregivers

The assigned Department or purchase of service agency caseworker shall provide the primary foster parent or relative caregiver caring for a child for whom the Department is responsible with monthly face-to-face consultation and support and more often on an as needed basis. This face-to-face contact with the primary foster parent or relative caregiver may occur at the same time as contact with the children in placement is made, provided that children are given the opportunity to be seen and interviewed alone. If there are two or more foster children in one foster home with more than one worker, their respective workers shall together meet at least once every six months with the foster parent, in the foster home, to discuss issues affecting the children's care.
- e) Children Placed in Residential Facilities

Children placed in residential facilities (group homes or child care institutions) must be visited by the assigned caseworker at least monthly, unless the facility is located more than 50 miles from the caseworker's headquarters. If the facility is more than 50 miles from the caseworker's headquarters, visits shall occur every two months.
- f) Children Placed in Foster Care or Relative Care Out of State

Children who are placed in foster care or relative home care out of state in compliance with 89 Ill. Adm. Code 328 (Interstate Placement of Children) must be visited no less frequently than every twelve months by a caseworker of the Department or of the state in which the child has been placed.

Section 315.120 Family Meetings

Family meetings are a tool intended to engage the family in the planning process. Therefore, caseworkers shall make intensive efforts to persuade and encourage parents to attend the family meetings, especially during the first 90

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days, by explaining to them the importance of the family meeting and of attending and cooperating with the process. Casework staff should make every effort when planning family meetings to be flexible and attempt as much as possible to schedule meetings at a time and place where parents can attend, preferably in the parent's home. Staff shall take into consideration parents' work schedules, transportation issues, availability of interpreters (if the parents' primary language of communication is other than English), and any other barriers that might prevent parents from participating. Parents shall be reminded of the court admonishment to cooperate with the Department and that refusal or chronic failure to attend family meetings may be considered by the Department and the court as a lack of reasonable progress. After reaching agreement with the parents on the date, time, location, and participants of the family meeting, the caseworker shall send a confirmation letter to the parents. Caseworkers shall document in the case file all attempts to include parents in the family meetings. Failure to attend family meetings shall also be documented in the case file.

a) Initial Family Meeting

1) The initial family meeting must occur within 30 days after the temporary custody hearing and includes at a minimum:

- A) the caseworker;
- B) the child's custodial parents;
- C) the non-custodial parent with the following conditions:
 - i) the non-custodial parent intends to seek custody of the child; and
 - ii) there is no danger of violence between the parents; and
 - iii) no confidential information concerning the custodial parent, such as mental health information, may be shared with the non-custodial parent, unless the custodial parent consents in writing to the sharing of such information as provided in 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services). If the custodial parent does not consent to the release of confidential information, the meeting shall be conducted in segments, with the non-custodial parent excluded from any discussion that includes the information about the custodial parent that is confidential;
- D) the casework supervisor.

2) In addition, at the supervisor's discretion and with the signed consent of the parent, the following may be invited:

- A) appropriate extended family members including non-custodial parents who are not interested in seeking custody;
- B) foster parents and relative caregivers (see subsections (f), (g), (h) and (i) below);
- C) service providers; and
- D) the child, if emotionally and developmentally appropriate.

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c) Purpose of Initial Family Meeting

The purposes of the initial family meeting, to be conducted by the casework supervisor, are to:

- 1) share information among all participants;
- 2) review the initial and comprehensive assessments;
- 3) discuss and prepare the initial service plan; and
- 4) determine the permanency goal.

d) Ongoing Family Meetings

1) Following the initial family meeting, family meetings will be conducted on a flexible schedule, but no less than on a quarterly basis (at least four times a year approximately three months apart). The ongoing family meeting shall include at a minimum:

- A) the caseworker;
- B) the child's custodial parents;
- C) the non-custodial parent with the same conditions as specified in subsection (a)(1)(c) above;
- D) the casework supervisor at the supervisor's discretion. However, the supervisor must attend if the non-custodial parent will be attending the meeting;
- 2) In addition, at the supervisor's discretion and with the signed consent of the parent, the following may be invited:
 - A) appropriate extended family members, including non-custodial parents who are not interested in seeking custody;
 - B) foster parents and relative caregivers (see subsections (f), (g), (h) and (i) below);
 - C) service providers; and
 - D) the child, if emotionally and developmentally appropriate.

e) Purposes of Ongoing Family Meetings

The purposes of the ongoing family meetings are to:

- 1) assure disclosure of the expectations of all parties;
- 2) assess reasonable efforts on behalf of the Department or the purchase of service agency;
- 3) assess reasonable progress on behalf of the family;
- 4) assess whether the plan is serving the health, safety, and best interests of the child;
- 5) provide support for decisionmaking that recognizes the child's sense of time, including whether the permanency goal and time frames for achieving the goal should be continued, and whether services and service providers are effective;
- 6) share information among the participants;
- 7) evaluate whether the identified behaviors and conditions are being addressed and whether the parents are engaged in the change process;
- 8) engage in planning that involves addressing the needs of the child with appropriate services and establishing realistic time frames for achievement of tasks and goals; and
- 9) review clinical material by various service providers. Clinical reports should be obtained and collateral contacts completed

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prior to the staffing. Professionals should have discussed findings and recommendations with the client/family prior to the meeting to promote open and honest discussion.

- f) Prior to inviting foster parents to the initial family meeting, the caseworker must consider the statutory requirement that protects foster parents' addresses and telephone numbers from disclosure. Such information shall not be disclosed to the child's parents at the initial family meeting that occurs within the first 30 days after the temporary custody hearing.

- g) In deciding whether to invite the foster parents to the meeting, the caseworker shall take into consideration the level of violence or tendency toward violence displayed by the child's parents. This shall be assessed during the first 30 days as the caseworker is conducting the comprehensive assessment. The caseworker shall use information from:

- 1) Department safety and risk assessments;
- 2) the social history, including information such as the parents' arrest history, history of domestic violence, and court records; and
- 3) the caseworker's own observations.

- h) Information concerning the level or tendency toward violence of the parents may be shared with the foster parents to help them decide whether to attend the initial family meeting. In no event shall the address and telephone number of the foster parents be disclosed at the initial family meeting.

- i) For all subsequent family meetings the same violence factor shall be considered when determining whether the foster parent should attend and whether there is any danger to the foster parent by attending the family meeting.

- j) The participants in the family meeting will attempt to reach decisions and agree on recommendations by consensus. If a consensus cannot be reached, the final decision rests with the supervisor on all meetings.

- k) Documentation of the meeting and report of the recommendations/decisions is to be made and included in the case record.

- l) Parents have the right to appeal decisions with which they disagree in accordance with 89 Ill. Adm. Code 337 (Service Appeal Process).

Section 315.130 Developing the Service Plan

Based on the information gathered during the assessment process described in Section 315.100 and through negotiation during the caseworker's contacts, visits, and at the initial family meeting, the caseworker and family shall develop a plan of intervention that is based on the family's strengths and needs and that addresses how the children's needs for health and safety will be met.

- a) Purpose of the Service Plan
The service plan is a written plan that is established between the

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Department and the children and family served, and any involved service providers. The purpose of the service plan is to:

- 1) formulate goals for the child based on the child's needs for health, safety, and well-being that were identified during the assessment process;
- 2) identify what actions the family, the caseworker, caregiver, and others will take to meet the needs of the child and achieve permanency;
- 3) identify what additional interventions and services will be provided to the family, the caregiver, and the child in order to meet the child's needs and achieve permanency.

- b) State and Federal Requirement
Service plans are required by State [20 ILCS 505/6a] and Federal law (42 U.S.C.A. 675) regardless of whether the child and family are served directly by the Department or through purchase of service providers. The service plan must ensure that the health and safety of the child are the paramount concerns that guide all service, placement, and planning provisions.

- c) Time Frames
The initial service plan shall be completed within 30 days after case opening and must be reviewed at least once every six months thereafter. The service plan shall be changed and updated as the child and family's situation changes and shall be reviewed regularly as specified in Section 315.150 (Revising the Service Plan).

- d) Contents of the Service Plan
Service plans shall contain the following information:
- 1) the names of the children for whom the Department is legally responsible or to whom the Department is providing services;
 - 2) the health and safety factors that have resulted in placement of the children away from the family home and an identification of any problems that are causing continued placement of the children away from the home;
 - 3) what outcomes would be considered a resolution to these problems and the strengths the family possesses to achieve these outcomes;
 - 4) the services to be provided to the parents, for each child while in care, and the foster parents (if necessary when the child is placed in foster care) that may best resolve these problems;
 - 5) the health care to be provided to the child and the mental health care to be provided to address the child's serious mental health needs as well as a description of the child's physical, developmental, educational or mental disability and any non-educational specialized services the child is receiving or should receive for each disability. If an Individual Treatment Plan (ITP) or Rehabilitative Services Plan exists for the child, it shall be attached to the service plan;
 - 6) a description of the educational program/services the child is receiving or needs to receive (including information regarding Early Intervention, Head Start, or Pre-Kindergarten services for

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preschool children). If an Individualized Education Plan (IEP) or an Individualized Family Service Plan (IFSP) exists for a child, the IEP or IFSP shall be included in the record;

7) who will provide the services, how often they will be provided, and an explanation of why these services will meet the needs of the child;

8) if children placed out of the parents' home are placed a substantial distance (more than 150 miles) from the home of the parents or in a different state, the reasons why the placement is in the best interests of the children;

9) if children placed out of the parents' home are placed in a different state, a requirement that the child be visited periodically, but not less frequently than every 12 months, by a caseworker of the Department or of the state in which the child has been placed, and that the caseworker submit a report on the visit to the Department;

10) if siblings are placed apart from one another, the reasons why they are placed apart and what efforts are being made to find a joint placement for the sibling group;

11) the permanency goal for each child and the reason for selecting the goal;

12) the responsibilities of the family and the child (when appropriate) in fulfilling the service plan;

13) the responsibilities of the Department and purchase of service providers, if any, to assist the family in fulfilling the service plan;

14) when children and families are separated, the parent-child and/or sibling visitation plan developed with the family in accordance with 89 Ill. Adm. Code 301 (Placement and Visitation Services), if visitation is not prohibited by court order. This plan shall include the time and place of visits, the frequency of visits, the length of visits, and who shall be present at the visits;

15) the time frames for achieving the permanency goal and the objectives to resolve identified problems and the specification of any consequences to the child and family if the time frames are not met;

16) a statement that the parents or children may disagree with the service plan and that they may have their disagreement recorded;

17) an explanation of how parents or children may request an appeal and fair hearing; and

18) the reasons for the out of home placement and the reason why the child has been put in his or her current placement, the resources or other support that will be necessary to maintain the placement, and, where a residential placement has been deemed necessary, a description of how and when a plan for moving the child to the least restrictive, most homelike placement consistent with the child's best interest can be developed.

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Section 315.140 Distributing the Service Plan

Copies of the service plan shall be distributed in accordance with the Department's rules on confidentiality (89 Ill. Adm. Code 431, Confidentiality of Personal Information of Persons Served by the Department) to:

a) the parents (unless parental rights have been terminated or the Department has filed a petition seeking the termination of parental rights);

b) the putative father, if he is participating in planning for the child;

c) the involved purchase of service providers, including the foster parents or relative home caretakers. Foster parents or relative home caretakers will receive copies of the child's portion of the service plan. Foster parents may be able to receive other portions of the service plan involving the child's family provided that the information being presented is essential for understanding the needs of and providing care to the child and the child's family acknowledges a positive relationship with the foster parents and gives consent in accordance with the consent provisions of 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department);

d) the child, if participating in the planning process;

e) appropriate Department staff;

f) the guardian ad litem and legal representative of the child; and

g) the Juvenile Court when the court has jurisdiction. The initial service plan must be submitted to the court within 45 days after a child's placement. In addition, the most current revised service plan prepared within the prior six months must be submitted to the court at least 14 days in advance of the next permanency hearing, as required by the Juvenile Court Act of 1987 [705 ILCS 405/2-28].

Section 315.150 Revising the Service Plan

The service plan shall be reviewed and revised, if necessary:

a) when the current permanency goal is no longer appropriate;

b) when the current service plan does not address the child's or family's needs;

c) prior to each administrative or regular case review;

d) prior to each permanency hearing; and

e) when there are substantial changes in the family's circumstances.

Section 315.160 Case Reviews and Court Hearings

An important part of the service planning process requiring the caseworker's participation are the reviews and court oversights of the efforts of the Department or its provider agency and the family toward achieving the permanency goal. Decisions made by the court and by the administrative case review system must be incorporated in the service plan. Recommendations made by the administrative case review system or by the court, if not specifically

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ordered by the court, shall be given careful consideration by all the parties involved in the service planning process. The Department's responsibilities with regard to case reviews and court hearings are described in 89 Ill. Adm. Code 316 (Case Reviews, Court Hearings, and Permanency Hearings). Purchase of service agencies are responsible for a case while it is assigned to them. If they receive a case with deficiencies, they have 60 days to bring the case into compliance with the requirements of this Part.

SUBPART C: SELECTING THE PERMANENCY GOAL

Section 315.200 Selection of the Permanency Goal

a) Types of Permanency Goals

A permanency goal is the desired outcome of intervention and service that is determined to be consistent with the health, safety, well-being and best interests of the child. A description and the criteria for selection of each of the goals are included in Sections 315.205 through 315.240. The goals that may be selected for children placed apart from their families are listed below followed in parentheses by the numerical code that is entered into the Department's Child and Youth Centered Information System (CYCIS):

- 1) return home within five months (21);
- 2) return home within 12 months (22);
- 3) return home pending status hearing (23);
- 4) substitute care pending court determination on termination of parental rights (24);
- 5) adoption, provided that parental rights have been terminated or relinquished (25);
- 6) guardianship (26);
- 7) independence (27); or
- 8) cannot be provided for in a home environment (28).

b) Process for Selection

1) During the first 12 months, prior to the first court permanency hearing, the Department or purchase of service agency selects the permanency goal. At the first permanency hearing the Department or purchase of service agency will recommend a permanency goal, but the court selects the goal.

2) An initial permanency goal will be established by the Department or purchase of service agency no later than 30 days after the Department takes custody of a child, and only after:

- A) an assessment has been completed with the family and reviewed and approved by the casework supervisor; and
- B) the initial family meeting has been held.

c) Changing the Permanency Goal

A permanency goal may only be changed:

- 1) within the first 12 months following case opening by the caseworker with the approval of the supervisor; or
- 2) within the first 12 months following case opening at an

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- 3) administrative case review or a decision review; or when selected by the court at the permanency hearing pursuant to Section 2-28 of the Juvenile Court Act of 1987 [705 ILCS 405/2-28]. A permanency goal selected by the court cannot be changed without the approval of the court.

Section 315.205 Return Home Within Five Months

a) Description

The minor will be returned home by a specific date within five months from the date of case opening or the court permanency hearing at which the goal is set by the court.

b) Criteria for Selection

Returning home within five months should be established as the permanency goal:

- 1) when on the basis of the current assessment and/or a history of service delivery, the parents are willing and able to correct the conditions that led to the child's removal from the home by a date within five months; and
- 2) when the child's best interests will be served by reunification within five months; or
- 3) when the goal has been ordered by the court.

Section 315.210 Return Home Within One Year

a) Description

The minor will be in short term care with a continued goal to return home within a period not to exceed one year after the date of case opening or the court permanency hearing and the progress of the parents is substantial, giving particular consideration to the age and individual needs of the minor.

b) Criteria for Selection

Returning Home within one year should be established as the permanency goal when:

- 1) on the basis of the current assessment and family history, the parent is making substantial progress in correcting the conditions or behaviors necessitating the child's removal from the home; or
- 2) the parent was not initially cooperative with services, but is now progressing well in services; or
- 3) the parent is cooperating with services, but the need for services is so great that additional time is required; or
- 4) the goal has been ordered by the court.

Section 315.215 Return Home Pending Status Hearing

a) Description

The minor will be in short-term care with a continued goal to return

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home pending a status hearing. When the court finds that a parent has not made reasonable progress to date, the court shall identify what actions the parent and the Department or purchase of service agency must take in order to justify a finding of reasonable progress and shall set a status hearing to be held not earlier than nine months from the date of adjudication, nor later than 11 months from the date of adjudication, during which the parent's progress will again be reviewed.

b) Criteria for Selection

This goal may only be selected by the court. It is selected when:

- 1) the parents have not substantially fulfilled their obligations under the service plan and corrected the conditions that brought the child into care; and
- 2) nine months have not yet elapsed since adjudication.

c) Status Hearing

- 1) When the court selects this goal, the court will set a status hearing to review the parents' progress. The date for the status hearing will be not earlier than nine months from the date of adjudication, nor later than 11 months from the date of adjudication. The court will tell the parents what they must do to demonstrate reasonable efforts or progress. The court will also require that relevant, appropriate reunification services continue to be available during this time period.

- 2) When the court conducts the status hearing at 9 to 11 months after the adjudication, the court will determine whether the parents have made reasonable efforts or progress toward attaining the goal of "return home." If the court finds that the parents have failed to make reasonable efforts or progress, the court may select the goal "substitute care pending court decision regarding termination of parental rights" based upon the parents' failure "to make reasonable efforts to correct the conditions that were the basis for removal of the child or to make reasonable progress toward the return of the child to the parent within nine months of an adjudication" of neglected, abused or dependent minor." (750 ILCS 50/1D(m))

- 3) This goal is not available for selection by a caseworker. However, when the court selects this goal, the caseworker shall request a legal screening to determine whether the parents have failed to fulfill their obligations under the service plan and failed to correct the conditions that brought the child into care, and the case is approaching nine months since adjudication or more than nine months have passed since adjudication.

Section 315.220 Substitute Care Pending Court Determination on Termination of Parental Rights

a) Description

The minor will be in substitute care pending a court's determination

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on termination of the parental rights of the minor's parents.

b) Criteria for Selection

Substitute care pending court determination on termination of parental rights may be selected as a permanency goal when a decision has been made to pursue termination of parental rights. This goal must be established when:

- 1) A request for termination of parental rights has been filed with the court; or
 - 2) The goal has been set by the court; or
 - 3) The case successfully passes a legal screening conducted by the Department to determine whether sufficient grounds for termination of parental rights exist and whether it is in the best interest of the child to empower the guardian to consent to adoption; or
 - 4) A State's Attorney decides that sufficient grounds for termination of parental rights exist and that it is in the best interest of the child to empower the guardian to consent to adoption.
- c) This goal may be selected when termination of parental rights is in the child's best interests because of safety concerns, even if the child may not be adopted.
- d) If the court grants termination of parental rights, this goal shall be changed to the appropriate goal, as directed by the court and further services directed toward family reunification will not be offered.

Section 315.225 Adoption

a) Description

An adoptive home will be sought for the child.

b) Criteria for Selection

- 1) Adoption may be selected as the permanency goal when parental rights of both parents have been terminated or relinquished through:

- A) adoptive surrenders; or
 - B) consents, including consents to adoption by a specified person; or
 - C) action by the court to terminate parental rights with the appointment of the Department as guardian with the power to consent to the child's adoption; or
 - D) death; and
- 2) adoption has been determined to be in the best interest of the child; and
- 3) the child, if age 14 years or over, consents to the adoption.

Section 315.230 Guardianship

a) Description

The guardianship of the minor will be transferred to an individual or

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couple on a permanent basis provided that the return home goals and the goal of adoption have been ruled out.

b) Criteria for Selection

Private guardianship may be selected as the permanency goal when:

- 1) the reunification goal and the adoption goal have been ruled out as permanency goals for the child, but the child resides with a relative or foster home caregiver with whom the child has formed an emotional attachment and who is willing to accept legal responsibility for the child and assume a commitment to a permanent relationship that meets the child's needs over time; or
- 2) ordered by the court.

c) Subsidized Guardianship

To be eligible for subsidized guardianship, the eligibility criteria described in 89 Ill. Adm. Code 302.405 must be met.

Section 315.235 Independence

a) Description

The minor over age 12 will be in substitute care pending independence.

b) Criteria for Selection

Independence may be selected as the permanency goal for a minor 13 years or older:

- 1) provided that:

- A) goals of return home, adoption, and guardianship have been ruled out; and
- B) either an assessment has been made and the child has demonstrated the ability, capability, and willingness to care for him or herself, has become economically self-sufficient and/or is establishing a family of his or her own; or

- 2) provided that:

- A) an assessment has been made that a child who has a physical or mental disability demonstrates the ability, capability and willingness to care for themselves with proper support; and
- B) the child demonstrates the ability to achieve and maintain progress towards independence through continued cooperation with the service plan; or

- 3) provided that the goal of independence has been ordered by the court.

Section 315.240 Cannot Be Provided for in a Home Environment

a) Description

The minor will be in substitute care because he or she cannot be cared for in a home environment due to extreme or complicated physical or mental disabilities that cannot be sufficiently controlled in a home environment, provided that goals of return home, adoption, and

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guardianship have been ruled out.

b) Criteria for Selection

Substitute care when a home environment is not appropriate may be selected as the permanency goal:

- 1) for those children who have an extreme or complicated physical or mental disability as diagnosed by a physician and/or psychiatrist and no responsible adult who is able and willing to care for the child has been identified. A few children, due to their disability, need continued care in an intermediate or skilled nursing facility, or in a child care institution, provided that goals for return home, adoption, guardianship, and independence have been ruled out; or
- 2) when ordered by the court.

- c) Children with extreme or complicated physical or mental disabilities who require long-term care should not be confused with children who are in group homes or institutions in order to receive intensive, short-term treatment directed toward correcting problems that significantly interfere with life outside the institution. Substitute care for children who cannot be provided for in a home environment is not an appropriate permanency goal for children who are receiving short-term, intensive services in a group home or institution.

Section 315.245 Concurrent Planning

a) Description

Concurrent planning is a process whereby the Department or purchase of service agency will make reasonable efforts to return the child home within nine months after the child's placement in substitute care, while at the same time making it clear to the child's family that an alternative permanency plan for the child is being developed that will take effect if the parents do not make sufficient progress to enable the return home of their children within nine months.

b) Criteria for Selection of Cases

Concurrent planning must be utilized for a child who has been removed from a family that meets the criteria described below unless sufficient evidence exists to seek expedited termination of parental rights. The criteria are:

- 1) the parent has another child for whom parental rights were involuntarily terminated and there have been no significant changes in conditions or behaviors in the interim;
- 2) a finding that at birth the child's blood or urine contained any amount of a controlled substance as defined in Section 102(f) of the Illinois Controlled Substances Act, or a metabolite of a controlled substance, with the exception of controlled substances or metabolites of such substances the presence of which in the newborn infant was the result of medical treatment administered to the mother or the newborn infant, and that the biological mother of this child is the biological mother of at least one

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other child who was adjudicated a neglected minor under Section 2-3(c) of the Juvenile Court Act of 1987, after which the biological mother had the opportunity to participate in a drug counseling, treatment, and rehabilitation program;

- 3) the family has a history, either through their own efforts or with clinical treatment or specialized social services, of repeated, failed attempts to correct conditions that resulted in child maltreatment;
 - 4) there has been a single severe incident of abuse and/or neglect;
 - 5) there has been abuse/neglect toward a child who is particularly vulnerable given the child's age, developmental stage and/or disability;
 - 6) a child requires placement and has a sibling in out-of-home care because of the current caregiver's abuse or neglect;
 - 7) the parent has a diagnosed mental illness that renders the parent unable to provide or protect the child and that, upon assessment, indicates:
 - A) a history of treatment without response;
 - B) the prognosis that the condition will respond too slowly to meet the child's needs according to the child's age and development; or
 - C) the parent in treatment continually disregards medication or other treatment interventions;
 - 8) the parent has a developmental disability that, upon assessment, indicates that the parent may be unable to provide for, protect or nurture the child and the family has no other relatives or social supports able or willing to assist in parenting.
- c) If efforts to return the child home are unsuccessful, the Department or purchase of service agency will consider the alternatives described in Section 315.305 (When Reunification Is Inappropriate).

Section 315.250 Applicability of Reunification Services

If the goal selected by the court is one of the reunification goals, reunification services will continue to be provided to the parents for this minor. If the court selects a goal other than a reunification goal, parent-child visitation will continue to occur (unless parental rights have been terminated), but all other services to the parents toward accomplishing reunification for this child will cease. See Section 89 Ill. Adm. Code 302.40 for a list of typical reunification services. If there are other children in the home for whom the Department or purchase of service agency is providing services, or other children in substitute care, those services will continue. If there are no other children in the home or in Department custody, the Department or purchase of service agency may provide information and referral services to the parent.

SUBPART D: EVALUATION AND DECISIONMAKING

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Section 315.300 Evaluating Whether Children in Placement Should Be Returned Home

- a) When deciding whether to recommend to a court that children in placement should be returned home to their parents' care, the Department or purchase of service agency shall consider whether the parents have made reasonable progress in correcting the conditions that led to the removal of their children from the home. Reasonable progress on the part of the parents may include some or all of the following:
 - 1) they have learned and demonstrated their ability to assure the health, safety and development of the child;
 - 2) increased capacity to parent and to assure the child's health and safety as demonstrated by successful parent-child visits, appropriate involvement in more parental responsibilities (e.g., doctor's appointments, parent-teacher conferences, group therapy, involvement in recreational activities, better financial management, etc.);
 - 3) an ability to care for themselves so that they can meet the needs of the child;
 - 4) an improvement in parental choices, decisions and relationships that lead to a safer and healthier environment for their children;
 - 5) their participation in the recommended services and demonstration of change, such as improved parenting, participation in counseling sessions;
 - 6) their acceptance of responsibility for maltreatment of the child and show of empathy for the impact of the effects of the maltreatment on the child;
 - 7) they have learned to ask for and accept help;
 - 8) a better understanding of themselves resulting in an ability to identify warning signs and ask for help;
 - 9) the presence of an ongoing support network consisting of other family members, neighborhood or community, church, etc;
 - 10) demonstration of a willingness to develop a service plan that contains a plan for maintaining the safety of the child at home and an understanding of the merits of the plan.

b) The Department or purchase of service agency shall consider the following as demonstrations of a lack of reasonable progress on the part of the parents to correct the conditions that led to the removal of their children from the home and as good reasons to consider alternatives to return home:

- 1) parent has an ongoing pattern as a perpetrator of domestic violence and refuses to participate actively in treatment services or initiates new relationships in which there is violence; and/or
- 2) parent continues to reside with someone dangerous to the child and refuses to separate after having been advised of the dangers;

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- and/or
- 3) parent has an ongoing pattern as a victim of domestic violence and refuses to separate from the batterer or initiates new relationships in which there is violence and refuses to separate; and/or
 - 4) parent fails to remedy, with the assistance of the Department or purchase of service agency and other community resources, housing or housekeeping standards that are a threat to health or safety or to seek suggested economic resources when lack of resources is a major barrier; and/or
 - 5) parent continually misses visits with children, continually coming late for visits, or while visiting appears uninterested or is openly rejecting of the child or abusive or continually upsets children during visitation by verbal abuse, eliciting guilt, or by making unrealistic promises; and/or
 - 6) parent who is restricted in ability to parent due to developmental disability has failed to make efforts or is unable to demonstrate skills necessary to ensure the health and safety of the child; and/or
 - 7) parent's lifestyle continues to center around drugs/alcohol and addiction prevents him/her from parenting; and/or
 - 8) mother gives birth to a second or subsequent substance exposed infant; and/or
 - 9) parent has other children who have been in foster care for 12 months or more, attempts to reunite them have been unsuccessful and conditions have not changed substantially; and/or
 - 10) parent continually misses appointments, cancels appointments with Department staff or purchase of service agency staff or staff of other service or treatment providers, or fails to be involved in the treatment; and/or
 - 11) parent otherwise fails to fulfill the tasks outlined in the service plan or cooperate with the provisions of the service plan or meet conditions established by the court that would, if the parent cooperated, correct the conditions that threatened the health, safety, and well-being of the children.
- c) The Department or purchase of service agency shall not recommend returning children home if parental concern for the child is shown only by:
- 1) occasional, sporadic visits and contacts;
 - 2) elaborate or expensive gifts on holidays or birthdays; or
 - 3) statements of concern for the children that are not supported by actions consistent with their health, safety and well-being or by preparations for their return home.

Section 315.305 When Reunification Is Inappropriate

If the parents fail to demonstrate reasonable progress in correcting the conditions that led to the removal of the child within the time frames required

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by the permanency goal of return home that was assigned by the Department and/or the court, the following alternatives to return home shall be discussed with the parents:

- a) voluntary surrender of parental rights for purpose of freeing the child for adoption;
- b) consent to the adoption of the child by a specified person;
- c) involuntary termination of parental rights;
- d) private guardianship.

Section 315.310 Termination of Services and Planning for Aftercare

- a) Planning for the termination of services is an integral part of all service planning. From its earliest contacts with children and families, the Department or purchase of service agency shall focus on when services to the children and families shall end. In addition, when the Department is legally responsible for a child, the Department or purchase of service agency shall also focus on when and how the child shall be discharged from the Department's custody or guardianship and what aftercare services will be provided.
- b) If the child will be returned home from substitute care, the Department or purchase of service agency shall provide services for at least six months following return home of the child.
- c) Prior to closing a case, the Department or purchase of service agency will:
 - 1) conduct a review of the child's safety that includes:
 - A) a child safety and risk assessment protocol to include all members of the household, including a CANTS and LEADS check of all adults who reside or frequent the home; and
 - B) interviews with relatives, friends, or other persons who provide a support network for the family;
 - 2) review all medical, school, clinical, and social service reports;
 - 3) interview and observe the child alone out of the presence of the caregiver;
 - 4) conduct a family meeting as described in Section 315.120;
 - 5) petition the court for termination of the Department's custody or guardianship; and
 - 6) complete a final service plan that outlines how the health, safety, and well-being of the children will be ensured and what aftercare services are needed.

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1) Heading of the Part: Reports of Child Abuse and Neglect

2) Code Citation: 89 Ill. Adm. Code 300

3) Section Numbers: Proposed Action:

300.120	Amend
300.110	Amend
300.120	Amend
300.160	Amend
300.170	New

4) Statutory Authority: 325 ILCS 5

5) A Complete Description of the Subjects and Issues Involved: Section 300.20, Definitions - The definition of "neglected child" has been revised to include any amount of a controlled substance in the meconium of a newborn infant per Public Act 90-239.

Section 300.110, The Formal Investigative Process - A provision has been added, per Public Act 90-15, that investigative staff shall not determine that a report is indicated based solely upon the existence of prior unfounded reports.

Section 300.120, Taking Children into Temporary Protective Custody - Expedited termination of parental rights is to be considered by the investigative worker when certain criteria are present. Those criteria are found in new rules 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible). Part 309 is expected to be adopted prior to these amendments to Part 300. This provision has been added per Public Act 90-28.

Section 300.160, Special Types of Reports - Provisions requiring referral to the child death review teams have been added per Public Act 90-239.

Section 300.170, Child Death Review Teams - This is a new Section describing the responsibilities of the child death review teams as contained in the Child Death Review Team Act [20 ILCS 515].

6) Will these proposed rules replace an emergency rule currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed rules contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or

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expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jerry B. Crabtree
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498
Telephone: 217/524-1983
TTY: 217/524-3715
Internet address: ORPINFO@pop.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendments begin on the next page:

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TITLE 89: SOCIAL SERVICES
 CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 SUBCHAPTER a: SERVICE DELIVERY

PART 300
 REPORTS OF CHILD ABUSE AND NEGLECT

Section	Purpose
300.10	Definitions
300.20	Reporting Child Abuse or Neglect to the Department
300.30	Content of Child Abuse or Neglect Reports
300.40	Transmittal of Child Abuse or Neglect Reports
300.50	Special Types of Reports (Recodified)
300.60	Referrals to the Local Law Enforcement Agency and State's Attorney
300.70	Delegation of the Investigation
300.80	Time Frames for the Investigation
300.90	Initial Investigation
300.100	The Formal Investigative Process
300.110	Taking Children into Temporary Protective Custody
300.120	Notices Whether Child Abuse or Neglect Occurred
300.130	Transmittal of Information to the Illinois Department of Professional Regulation and to School Superintendents
300.140	Referral for Other Services
300.150	Special Types of Reports
300.160	Child Death Review Teams
300.170	Acknowledgement of Mandated Reporter Status
APPENDIX A	Child Abuse and Neglect Allegations
APPENDIX B	

AUTHORITY: Implementing and authorized by the Abused and Neglected Child Reporting Act [325 ILCS 5] and Section 3 of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3].

SOURCE: Adopted and codified as 89 Ill. Adm. Code 302 at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 17, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5915, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1151, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified from 89 Ill. Adm. Code 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, and Appendix A at 11 Ill. Reg. 3492; emergency amendments at 11 Ill. Reg. 4058, effective February 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12619, effective July 20, 1987; recodified at 11 Ill. Reg. 13405; amended at 13 Ill. Reg. 2419, effective March 1, 1989; emergency amendment at 14 Ill. Reg. 11356,

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effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 17558, effective October 15, 1990; amended at 14 Ill. Reg. 19827, effective November 28, 1990; emergency amendment at 15 Ill. Reg. 14285, effective September 25, 1991; amended at 15 Ill. Reg. 17986, effective December 1, 1991; emergency amendment at 17 Ill. Reg. 15658, effective September 10, 1993, for a maximum of 150 days; emergency expired February 7, 1994; amended at 18 Ill. Reg. 8377, effective May 31, 1994; amended at 18 Ill. Reg. 8601, effective June 1, 1994; amended at 19 Ill. Reg. 3469, effective March 15, 1995; amended at 19 Ill. Reg. 10522, effective July 1, 1995; amended at 20 Ill. Reg. 10328, effective August 1, 1996; amended at 22 Ill. Reg. _____, effective _____.

Section 300.20 Definitions

"Abused Child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

inflicts, causes to be inflicted, or allows to be inflicted upon such child physical or mental injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

creates a substantial risk of physical or mental injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss of or impairment of any bodily function;

commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 1961, as amended, and extending those definitions of sex offenses to include children under 18 years of age;

commits or allows to be committed an act or acts of torture upon such child; or

inflicts excessive corporal punishment. [325 ILCS 5/3]

"Caregiver" means the child's parents ~~parent(s)~~, guardian, custodian or relative with whom the child lives and who has primary responsibility for the care and supervision of the child.

"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services.

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"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. Child care facility includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

"Child Protective Service Unit" (CPS) means certain specialized State employees of the Department assigned by the Director or his designee to perform the duties and responsibilities as provided under this part. They are also known as investigative staff. [325 ILCS 5/3]

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents ~~parent(s)~~ has signed an adoptive surrender or voluntary placement agreement with the Department.

"Collateral contact" means obtaining information concerning a child, parent, or other person responsible for the child from a person who has knowledge of the family situation but was not directly involved in referring the child or family to the Department for services.

"Credible evidence of child abuse or neglect" means that the available facts when viewed in light of surrounding circumstances would cause a reasonable person to believe that a child was abused or neglected.

"Delegation of an investigation" means the investigation of decision whether a report of child abuse or neglect ~~was--indicated--or unfounded~~ has been deferred to another authority. The Department maintains responsibility for determining whether the report is indicated or unfounded, entering information about the report in the State Central Register and ~~for~~ notifying the subjects of the report and mandated reporters of the results of the investigation.

"Department," ~~as--used-in-this-part,~~ means the Department of Children and Family Services.

"Determination" means a final Department decision about whether there is credible evidence that child abuse or neglect occurred. A determination must be either "indicated" or "unfounded."

"Disfigurement" means a serious or protracted blemish, scar, or deformity that spoils a person's appearance or limits bodily functions.

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"Formal investigation" means those activities conducted by Department investigative staff necessary to make a determination as to whether a report of suspected child abuse or neglect is indicated or unfounded. Such activities shall include: an evaluation of the environment of the child named in the report and any other children in the same environment; a determination of the risk to such children if they continue to remain in the existing environments, as well as a determination of the nature, extent and cause of any condition enumerated in such report, the name, age and condition of other children in the environment; and an evaluation as to whether there would be an immediate and urgent necessity to remove the child from the environment if appropriate family preservation services were provided. After seeing to the safety of the child or children, the Department shall forthwith notify the subjects of the report in writing, of the existence of the report and their rights existing under this Act in regard to amendment or expungement. [325 ILCS 5/3]

"Indicated Report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists.

"Initial Investigation" means those activities conducted by Department investigative staff to determine whether a report of suspected child abuse or neglect is a good faith indication of abuse or neglect and, therefore, requires a formal investigation. Good faith in this context means that the report was made with the honest intention to identify actual child abuse or neglect.

"Initial Oral Report" means a report alleging child abuse or neglect for which the State Central Register has no prior records on the family.

"Involved Subject" means a child who is the alleged victim of child abuse or neglect or a person who is the alleged perpetrator of the child abuse or neglect.

"Local law enforcement agency" means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area or any sworn officer of the Illinois Department of State Police.

"Mandated reporters" means those individuals required to report suspected child abuse or neglect to the Department. A list of these persons and their associated responsibilities is provided in Section 300.30 of this Part.

"Neglected child" means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food

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or care not provided solely on the basis of present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support, or medical or other remedial care recognized under State law as necessary for a child's well-being (including where there is harm or substantial risk of harm to the child's health or welfare), or other care necessary for a child's well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or who is a newborn infant whose blood, and urine or meconium contains any amount of controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite whose presence in the newborn infant is the result of medical treatment administered to the mother or newborn infant. A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care under Section 4 of the Abused and Neglected Child Reporting Act. Where the circumstances indicate harm or substantial risk of harm to the child's health or welfare and necessary medical care is not being provided to treat or prevent that harm or risk of harm because such parent or other person responsible for the child's welfare depends upon spiritual means alone for treatment or cure, such child is subject to the requirements of this Act for the reporting of, investigation of, and provision of protective services with respect to such child and his health needs, and in such cases spiritual means through prayer alone for the treatment or cure of disease or for remedial care will not be recognized as a substitute for such necessary medical care, if the Department or, as necessary, a juvenile court determines that medical care is necessary. A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code. [325 ILCS 5/3]

"Perpetrator" means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.

"Person responsible for the child's welfare" means the child's parent, guardian, foster parent, relative caregiver, an operator, supervisor, or employee of a public or private residential agency or institution or public or private profit or not-for-profit child care facility; or any other person responsible for the child's welfare at the time of

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the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, and volunteers or support personnel in any setting where children may be subject to abuse or neglect. [325 ILCS 5/3]

"Private guardianship" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/Art. XI].

"Relative," for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

- is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, great-uncle, or great-aunt, or
- is the spouse of such a relative, or
- is the child's step-father, step-mother, or adult step-brother or step-sister.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

"Subject of a report" means any child reported to the child abuse/neglect State Central Register, and his or her parent, personal guardian or other person responsible for the child's welfare who is named in the report.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated by the Department, subject to review by the Court. Temporary protective custody cannot exceed 48 hours excluding Saturdays, Sundays and holidays.

"Undetermined report" means any report of child abuse or neglect made to the Department in which it was not possible to complete an investigation within 60 days on the basis of information provided to the Department.

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"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 300.110 The Formal Investigative Process

- a) Beginning the Formal Investigation

The formal investigation begins as soon as investigative staff make a determination following the initial investigation that there is reasonable cause to believe that child abuse or neglect exists. Any actions described below which were taken during the initial investigation need not be repeated. Any time frames listed in Section 300.90 which apply to the formal investigation mentioned below are retroactive to the beginning of the initial investigation.
- b) Notifications During the Formal Investigation
 - 1) During the first contact, after the formal investigation has begun, with the child's custodial parent, personal guardian, or legal custodian and the alleged perpetrator, the investigative staff shall notify them in writing that:
 - A) the Department has received a report alleging abuse or neglect of their child; and
 - B) the Department is legally mandated to investigate all child abuse or neglect reports; and
 - C) information concerning the report has been entered into the Department's files; and
 - D) the Department will work confidentially with them unless it becomes necessary to share information with authorized individuals or agencies as provided by law in 89 Ill. Adm. Code 431; and
 - E) the subjects have the right of access to the information in the report with the exception of information which would identify the reporter or persons who cooperated in the investigation.
 - 2) Department investigative staff shall not give Miranda warnings to alleged perpetrators.
- c) Required Investigative Contacts

Investigative staff shall have direct, in-person contact with the alleged child victim, the alleged perpetrator, and the child's caretaker within seven days of the date the report was received, except in those situations noted in Section 300.110(d). If the subjects of the report do not speak the English language, an interpreter shall be obtained or a worker assigned who speaks the same language as the subjects of the reports.
- d) Situations Where the Contact Requirement is Waived
 - 1) In-person contact is not required when:
 - A) any subject of a child abuse or neglect report refuses to meet with or speak to the investigative worker; and
 - B) the worker has attempted to involve the local law enforcement agency or the State's Attorney, but this has failed to gain cooperation.
 - 2) In-person contact is not required when it is documented that a child abuse or neglect subject is inaccessible.
 - 3) In-person contact is not required when it is documented that the investigative worker has made a good faith attempt to locate the subjects of the report, but cannot, after a diligent search, locate them.
 - e) Collateral Contacts

The Department may make collateral contacts with persons other than the subjects of the report or the reporter to obtain further information regarding suspected child abuse or neglect. When determining whether collateral contacts should be made, the Department shall weigh:

 - 1) the allegations contained in the report;
 - 2) the severity of the incident; and
 - 3) the likelihood that the collateral contact will have relevant information about the allegations or the incident.
 - f) Administrative Subpoenas

If a mandated reporter who is believed to have information about the subject of a report is not allowed or refuses to speak with or provide documents to a child protective service worker about the reported child or family, an administrative subpoena may be issued to obtain the necessary information. This applies regardless of whether the mandated reporter made the report being investigated. In addition, if a parent, personal guardian, legal custodian, or alleged perpetrator refuses to meet with or speak to a child protective service worker, a subpoena may be issued to obtain the necessary information.
 - g) Photographs and X-rays
 - 1) Department investigative staff may take or obtain color photographs and x-rays of a child who is the subject of an abuse or neglect report when the child has observable marks or injuries believed to be caused by abuse or neglect. When the child's environment creates a substantial risk of injury or other harm, photographs may be taken of the child's environment.
 - 2) If the child's parents, personal guardian, or legal custodian can be located, he or she shall be notified of the Department's intent to secure the photographs or x-rays.
 - h) Immunity from Liability
 - 1) Any persons, institutions, or agencies shall have immunity from any liability if they, in good faith:
 - A) report suspected child abuse or neglect;
 - B) assist in the investigation of a child abuse or neglect report;
 - C) take temporary protective custody in accordance with Section

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- A) any subject of a child abuse or neglect report refuses to meet with or speak to the investigative worker; and
- B) the worker has attempted to involve the local law enforcement agency or the State's Attorney, but this has failed to gain cooperation.
- 2) In-person contact is not required when it is documented that a child abuse or neglect subject is inaccessible.
- 3) In-person contact is not required when it is documented that the investigative worker has made a good faith attempt to locate the subjects of the report, but cannot, after a diligent search, locate them.
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 - C) take temporary protective custody in accordance with Section

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300.120; or
D) take photographs or x-rays to substantiate the abuse or neglect report.

2) For purpose of any civil or criminal liability, a person's good faith in taking the above actions shall be presumed.

i) Final Determinations Regarding Child Abuse or Neglect

1) Investigative staff in their role as mandated reporters may add allegations of abuse or neglect or subjects to a report during the course of the investigation.

2) Upon completion of a formal investigation of abuse or neglect, investigative staff shall make a final determination as to whether a child was abused or neglected. This determination shall be based upon whether the information gathered from other persons during the investigation and the direct observations made by the investigative staff during the investigation constitute credible evidence of child abuse or neglect.

3) Allegations may be determined to be indicated, undetermined, or unfounded.

A) When credible evidence of abuse or neglect has been obtained, the allegation is indicated. A court finding of child abuse or neglect shall be presumptive evidence that the report is indicated. However, investigative staff shall not determine that a report is indicated based solely upon the existence of a prior unfounded report or reports. If any allegation of child abuse or neglect is indicated, the report is indicated.

B) When credible evidence of abuse or neglect has not been obtained, the allegation is unfounded. If all allegations of child abuse or neglect are unfounded, the report is unfounded.

C) When investigative staff have been unable, for good cause, to gather sufficient facts to support a decision within 60 days of the date the report was received, the allegation shall be considered undetermined. Additional periods of 30 days shall then be permitted to complete the investigation, after which a determination shall be made. In the absence of credible evidence of abuse or neglect, the allegations and the report shall be designated unfounded.

D) Good cause for extending the period for making a determination an additional 30 days may include but is not limited to the following reasons:

- i) State's attorneys or law enforcement officials have requested that the Department delay making a determination due to a pending criminal investigation.
- ii) Medical or autopsy reports needed to make a determination are still pending after the initial 60 day period.
- iii) The report involves an out-of-state investigation and

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the delay is beyond the Department's control.

iv) Multiple alleged perpetrators or victims are involved necessitating more time in gathering evidence and conducting interviews.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 300.120 Taking Children Into Temporary Protective Custody

a) Local law enforcement officers, Department investigative staff, and physicians treating a child may take temporary protective custody of a child without the consent of the persons ~~persons~~ responsible for the child's welfare, if they have reason to believe that:

- 1) leaving the child in the home or in the care and custody of the child's caregiver presents an imminent danger to the child's life or health. The child shall not be taken into protective custody for the sole reason that the child was left with a relative, so long as the relative is willing to keep the child, and the Department has reason to believe that the relative can adequately and safely care for the child; and
- 2) there is insufficient time to obtain a Juvenile Court order authorizing temporary custody.

b) In addition to the above requirements, Department investigative staff shall ensure and document that reasonable efforts were made to prevent or eliminate the need to remove a child from the child's home. However, it may be that due to the individual circumstances of the family and the child's best interest, safety and well-being, no efforts reasonably can be made to maintain the child in the child's home. Reasonable efforts shall not be required if there exists any of the grounds for expedited termination of parental rights as described in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible). Such a determination that no efforts reasonably can be made must be documented. If no efforts reasonably can be made to safely prevent or eliminate the removal of the child, the child shall be taken into protective custody. ~~have--decided--that--in-home--services-would-not sufficiently protect the child before Department staff take--temporary protective custody of a child--~~

c) Local law enforcement officers or physicians who take temporary protective custody of a child must immediately notify the Department of their action.

d) When taking temporary protective custody of a child or receiving a child who was taken into temporary protective custody by the local law enforcement officer or by a physician, Department investigative staff shall:

- 1) immediately notify the State Central Register of this action;
- 2) make every reasonable effort to notify the child's parents,

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personal guardian, legal custodian, and any relative caregiver from whom the child was removed, of the action;

3) request that the Guardianship Administrator or designee authorize any ordinary medical care or treatment necessary for those children taken into temporary protective custody;

4) if the child needs treatment of an emergency nature and the parent or guardian is unavailable or unwilling to provide consent, the physician or hospital shall be asked to proceed under the Consent by Minors to Medical Procedures Act [410 ILCS 210], which allows treatment to be given to minors without consent; and

5) obtain a shelter care hearing under the provisions of the Juvenile Court Act within 48 hours, excluding Saturdays, Sundays, and holidays, in order to retain custody for more than 48 hours.

e) At any time during the investigation, but no later than 30 days prior to the date of the scheduled adjudicatory hearing, the investigative worker shall request a legal screening to determine whether the State's Attorney should be asked to file a petition for expedited termination of parental rights, if:

1) it becomes known that there is present one or more of the grounds for seeking expedited termination of parental rights described in 89 Ill. Adm. Code 309 (Adoption Services for Children For Whom the Department of Children and Family Services is Legally Responsible), Section 309.50(d)(1) and (2); and

2) the parents are unwilling to voluntarily surrender the child for adoption or consent to the adoption of the child by a specified person.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 300.160 Special Types of Reports

Four types of child abuse or neglect reports shall receive special attention as specified below:

a) Incident Involving the Death of a Child

1) The Department shall immediately contact the appropriate medical examiner or coroner, the local law enforcement agency, and the State's Attorney when there is reasonable cause to suspect that a child has died as a result of abuse or neglect. The child protective investigator assigned to the investigation shall require a copy of the completed autopsy report from the coroner or medical examiner.

2) The Department shall refer to the child death review teams described in Section 300.170 of this Part the death of any child who is:

A) a child for whom the Department of Children and Family Services is legally responsible;

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B) a child being served in an open service case either by the Department or through purchase of service contracts with private agencies;

C) the subject of a pending child abuse or neglect investigation; or

D) a child who was the subject of an abuse or neglect investigation at any time during the 12 months immediately preceding the child's death.

3) The Department shall cooperate with the work of the child death review teams by:

A) providing to the team all records and case information relevant to the review, including records and information concerning previous reports or investigations of suspected child abuse or neglect;

B) assisting the team in its review of the child's death;

C) reporting on any follow-up interventions suggested by the team;

D) providing follow-up on death review team cases where circumstances surrounding the death suggest other children may be at risk;

E) providing information and consultation regarding the juvenile court process and the availability of the court to protect or intervene with surviving siblings; and

F) assisting with making arrangements for the date, time, and location of team meetings.

b) Reports Involving Child Care Facilities

Reports alleging abuse or neglect of children in child care facilities shall be made and received in the same manner as other reports. The appropriate supervisor or administrator at the facility shall be notified once the formal investigation has been commenced. Department licensing staff will be notified of all reports on licensed facilities upon commencement of the formal investigation. The Department shall advise the supervisor or administrator of their responsibility to take reasonable action necessary, based on all relevant circumstances and the allegations being investigated, to insure that the alleged perpetrator of the reported abuse or neglect is restricted from contact with children in the facility during the course of the formal investigation.

c) Reports Involving Schools

When a report is received alleging abuse or neglect of a child by a school employee known to the child through the employee's official or professional capacity, the Department will take the following actions:

1) to the extent possible, conduct an investigation involving a teacher at a time when the teacher is not scheduled to conduct classes.

2) conduct investigations involving other school employees in such a way as to minimize disruption of the school day.

3) make reasonable efforts to conduct the initial investigation in

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coordination with the employee's supervisor, if the report does not involve allegations of sexual abuse or extreme physical abuse.

- 4) when a report of alleged abuse involving a teacher occurred in the course of the teacher's efforts to maintain safety for other students, determine whether the teacher used reasonable force in accordance with rules established by the local board of education as authorized by the School Code (~~§11-1-et-seq.~~ [105 ILCS 5], ~~para. 1-1-et-seq.~~ [105 ILCS 5]).
- 5) advise school officials that they may, in accordance with the School Code (~~§11-1-et-seq.~~ [105 ILCS 5], ~~para. 1-1-et-seq.~~ [105 ILCS 5]), withhold from any person, information on the whereabouts of any child removed from school premises, when the child has been taken into protective custody as a victim of suspected child abuse and that they may direct persons seeking information to the Department or to the local law enforcement agency.
- 6) advise school employees accused of child abuse or neglect of their due process rights, of the steps in the investigative process, and that they may have their superior, association or union representative, and attorney present at any interview or meeting at which the school employee is present.
- 7) Prior to indicating a report involving a school employee, the Department will take the following steps:
 - A) send the employee a copy of the investigative file with identifying information deleted. Any materials and evidence submitted to the Department subsequent to sending the employee a copy of the investigative file shall be sent to the employee upon receipt by the Department;
 - B) allow the school employee, prior to the final finding, an opportunity to:
 - i) present evidence to the contrary regarding the report; and
 - ii) request an informal conference at which the employee may present the additional evidence and/or, subject to the discretion of the Department, confront the accuser, provided the accuser is 14 years of age or older.
- 8) If an informal conference is requested, the Department shall schedule the conference after receipt by the employee of the copy of the investigative file, and shall:
 - A) conduct the conference in a neutral setting away from the school grounds during hours when school is not in session, unless requested otherwise by the school employee;
 - B) notify the following persons of the conference, if the purpose of the conference is merely to submit additional evidence:
 - i) the school employee and representative

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- ii) ~~representative(s),~~
Department representatives including the investigative worker;
 - C) notify the following additional persons if the employee wishes to confront the accuser and the Department has approved such a confrontation:
 - i) the accuser, provided the accuser is 14 years of age or older, and the accuser's ~~parents~~ ~~parent(s),~~ guardian and/or representative of a Child Advocacy Center, when involved in the case. (The accuser is the person who has made the allegation of abuse or neglect. The accuser is not necessarily the same as the reporter.)
 - ii) representatives of the State's Attorney's Office or law enforcement agency in the county where the alleged incident occurred, when the State's Attorney's Office or law enforcement agency are currently involved in the investigation and/or are considering filing criminal charges in the case.
 - iii) persons identified by the employee who have information relevant to the report, who will be included in only those portions of the conference pertaining to their testimony;
 - D) following the conference, allow the school employee at least five calendar days to present additional evidence to the Department;
 - E) make a final determination with regard to the report in accordance with Section 300.110 of this Part.
- 9) No such conference will be allowed when there is a criminal investigation pending and the Department has been advised by law enforcement authorities or the State's Attorney not to allow a face-to-face confrontation between the accused and the accuser.
 - 10) When determining whether to allow the school employee to confront an accuser who is 14 years or older, the Department shall take the following into consideration:
 - A) whether, due to the nature of the allegation, a confrontation with the accused school employee would cause excessive trauma to the child, and
 - B) whether the child has a documented history of mental, emotional or developmental problems.
 - 11) The Department shall inform the child and the child's ~~parents~~ ~~parent(s)~~ in writing prior to the conference and orally at the conference that:
 - A) they may decline to attend or proceed with the conference, and
 - B) if they do attend, they may refuse to answer any questions posed, and
 - C) if the child attends, he or she has the right to have an

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attorney or other person representing his or her interests present at the conference, in addition to his or her parents ~~parent(s)~~ or guardian.

12) Child's or parent's refusal to attend a conference or to answer questions shall not be grounds for unfounding an otherwise credible report.

13) All proceedings shall be confidential and no statement, summary, transcript, recording or other investigative product shall be released except on written order of the court, or in compliance with the confidentiality provisions of the Abused and Neglected Child Reporting Act. Violations of these provisions is a Class A misdemeanor ~~(§11-Rev--Stat--19917-ch-237-par-266i-11)~~ [325 ILCS 5/11.11].

14) Whether or not an informal conference has been conducted, the school employee retains all other appeal rights provided in the Abused and Neglected Child Reporting Act ~~(§11-Rev--Stat--19917-ch-237-par-2657-16)~~ [325 ILCS 5/7.16] and 89 Ill. Adm. Code ~~ch-237-par-2057-16~~ 3367 (Appeal of Child Abuse and Neglect Investigation Findings).

d) Reports Involving State Facilities and State Employees Acting in Their Official Capacity
When reports are received alleging abuse or neglect of children by any State of Illinois Department or any State employee acting in his or her official capacity, the report-taker will immediately notify the Director of the Department or designee. The Director or designee will transmit the details of the report to the Division of Internal Investigation, Illinois Department of State Police.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 300.170 Child Death Review Teams

a) The Director of the Department shall appoint a child death review team in each subregion of the Department outside Cook County and at least one child death review team in Cook County.

b) Every child death shall be reviewed by the team in the Department subregion that has primary case management responsibility when the deceased child meets one of the criteria described in Section 300.160(a)(2) of this Part. The child death review team may, at its discretion, review other sudden, unexpected, or unexplained child deaths.

c) The purposes of the child death reviews are to:

- 1) assist in determining the cause and manner of the child's death, when requested;
- 2) evaluate means by which the death might have been prevented;
- 3) report its findings to appropriate agencies;
- 4) make recommendations that may help to reduce the number of child deaths caused by abuse or neglect;

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5) promote continuing education for professionals involved in investigating, treating, and preventing child abuse and neglect as a means of preventing child deaths due to abuse or neglect; and

6) make specific recommendations to the Director and the Inspector General of the Department of Children and Family Services concerning the prevention of child deaths due to abuse or neglect and the establishment of protocols for investigating child deaths.

d) A child death review team shall review a child death as soon as practical and not later than 90 days following the completion by the Department of the investigation of the death. When there has been no investigation by the Department, the child death review team shall review a child's death within 90 days after obtaining the information necessary to complete the review from the coroner, pathologist, medical examiner, or law enforcement agency, depending on the nature of the case.

e) The Director shall, within 90 days, review and reply to recommendations made by a team pursuant to subsection (c)(5) of this Section. The Director shall implement recommendations as feasible and appropriate and shall respond in writing to the death review team to explain the implementation or nonimplementation of the recommendations.

f) A child death review team shall have access to all records and information that are relevant to the team's review of a child's death and in the possession of a State or local government agency. [20 ILCS 515/10]

(Source: Added at 22 Ill. Reg. _____, effective _____)

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Case Management Services to Persons with AIDS

2) Code Citation: 89 Ill. Adm. Code 716

3) Section Numbers: Proposed Action:

716.100	Repealed
716.200	Repealed
716.300	Repealed
716.400	Repealed
716.500	Repealed
716.600	Repealed

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

5) A Complete Description of the Subjects and Issues Involved: The revisions repeal these previous HSP AIDS Rules so that new rules can be added. The repeal will coincide with the approval of the new rules.

6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Ave. East
Springfield, Illinois 62762
217/785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis: The Department has determined that this rulemaking will not affect small business.

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A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF REHABILITATION SERVICES

NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES

CHAPTER IV: DEPARTMENT OF HUMAN SERVICES

SUBCHAPTER d: HOME SERVICES PROGRAM

PART 716

CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS (REPEALED)

Section

716.100 Program Overview

716.200 Compliance Requirements

716.300 Monitoring and Liability of Program

716.400 Subcontracts

716.500 Agency Eligibility

716.600 Staffing Requirements, Qualifications, and Training

AUTHORITY: Implementing and authorized by Section 3(g) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(g)].

SOURCE: Adopted at 15 Ill. Reg. 21001, effective December 11, 1990; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 22 Ill. Reg. _____, effective _____.

Section 716.100 Program Overview

a) The Department of Human Services (DHS) shall enter into agreements with agencies to provide case management services to persons with AIDS (PWA's), which includes persons with human immunodeficiency virus (HIV) infection, who are eligible for services provided by the AIDS Medicaid Waiver. For geographical areas in Illinois in which case management agencies are not located, case management shall be provided by DHS Home Services counselors, utilizing licensed home health nurses as needed to comply with the services offered and the requirements contained in subsections 716.100(c) and (d).

b) The case management agency (hereafter referred to as "Provider"), shall receive client referrals from hospitals, the Illinois Department of Public Health's AID Hotline, other state and local agencies, and other referral services (e.g., doctors and individuals) via the DHS AIDS Unit. The Provider shall assign a Case Management Team (CMT) to each client. The rules that DHS uses to govern placement of clients into case management teams are located in Subchapter d: Home Services Program (89 Ill. Adm. Code 675, Subchapter d)

c) The CMT shall provide the following services:

- 1) initial assessment of eligibility and information gathering (89 Ill. Adm. Code 685);
- 2) development of a care plan and implementation (89 Ill. Adm. Code 700);
- 3) reassessment of level of care at least every three months (89

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Ill. Adm. Code 698);

- 4) networking/coordinating/brokering services (i.e. referring and assisting the client in obtaining other agencies' services);
- 5) counseling and advocacy;
- 6) inter-agency liaison (e.g., with DHS, vendors, hospitals);
- 7) a minimum of one weekly client contact by phone;
- 8) a minimum of one home visit per month;
- 9) maintenance and updates of client records; and
- 10) monitoring the cost effectiveness of the service plan (89 Ill. Adm. Code 700.200).

d) The CMT shall determine client eligibility for the AIDS Waiver, which allows DHS to claim 50% reimbursement from Medicaid for community care for eligible individuals, by a home visit or an assessment while the applicant is hospitalized (89 Ill. Adm. Code 685.500). To determine client eligibility the CMT will utilize the DHS Determination of Need Assessment (89 Ill. Adm. Code 685).

1) The CMT shall assess the applicant's limitations in activities of daily living (ADL) (e.g., cooking, bathing, shopping) and what resources are available to assist the applicant in performing the ADLs (89 Ill. Adm. Code 685.500).

2) If the assessment demonstrates the need for intermediate care facility (ICF), skilled nursing facility (SNF), or hospital care because of the disability of AIDS/HIV, the CMT shall develop a service plan which will allow the client to live at home (89 Ill. Adm. Code 685.500).

3) The cost of services in the care plan shall not exceed the Illinois Department of Public Aid cost of hospitalization for the PWA (89 Ill. Adm. Code 685.600).

4) The service plan shall be approved by the client's physician. If the plan is not approved by the client's physician, it cannot be implemented and the client cannot be served by the AIDS Waiver.

5) The CMT shall have full responsibility for the determination of eligibility including assessment, development of plans of care, and arrangement and implementation of services to be provided.

Section 716.200 Compliance Requirements

In order to participate in the DHS program to provide services to PWAs, the Provider agrees to meet the following minimum requirements which shall be reviewed by DHS annually for compliance:

- a) Organization and Administration. The Provider shall make available, upon request, its articles of incorporation, or if an unincorporated association (i.e. partnerships, limited partnerships etc.), shall provide a statement of purpose and functions; and the names and addresses of its owners, partners, or general partners.
- b) Audits. DHS reserves the right to audit all records and accounts pertinent to this agreement at anytime within five years after final completion date of the agreement.

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- c) Policies and procedures. The Provider shall have written policies approved by its governing authority (e.g., Board of Directors) and available for review by consumers and purchasers of the service. Such policies shall cover at least:

- 1) Service provided - Policy shall designate the type and scope of service provided. When more than one type of service is offered, there shall be a clear distinction between each type provided.
- 2) Personnel Policies - Policies shall cover salary schedules, hours of work, sick leave, provision for handling employee grievances, requirements for attendance at work conferences and training sessions. There shall be written job descriptions identifying required qualifications and duties for each title. Policies shall also include the Centers for Disease Control (CDC) recommendations for health care workers for provision of services to PWAs and the Illinois Statutes regarding AIDS, including the AIDS Confidentiality Act [410 ILCS 305].

- d) State and Federal Statutes

- 1) All Providers shall be subject to compliance with the Illinois "Conflict of Interest Law", a provision of the Illinois Purchasing Act [30 ILCS 505].
- 2) All Providers shall agree to comply with the 100.259 Civil Rights Restoration Act of 1987 (P.L. 100259), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Illinois Human Rights Act [775 ILCS 5], the Constitution of the United States, the 1970 Constitution of the State of Illinois and any laws, regulation or orders, state or federal, which prohibit discrimination on the grounds of race, color, sex, religion, national origin, ancestry, age, marital status, inability to speak or comprehend the English language, physical or mental handicaps, or unfavorable discharge from military service.
- 3) The Provider shall comply with the Federal Drug Abuse Confidentiality Act (42 U.S.C. 240 ee-3) and the AIDS Confidentiality Act. (42 U.S.C. ee-6).

Section 716.300 Monitoring and Liability of Program

- a) The DHS AIDS Unit shall monitor the Provider to assure compliance with this part by:
 - 1) reviewing and approving the assessment (Section 716.100) (the review will be conducted pursuant to the rules contained in DHS Home Services Program, 89 Ill. Adm. Code 685 et seq.), the plan and payments for services; and
 - 2) reviewing a random sample of AIDS cases on a semi-annual basis.
 - 3) reviewing the Providers personnel records to ensure compliance with Section 716.600.
- b) Liability
 - 1) DHS shall assume no liability for actions of the Provider under

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the Agreement.

- 2) The Provider shall agree to hold DHS harmless against any and all liability, loss, damage, cost or expenses arising from wrongful or negligent acts of the Provider.
- 3) The Provider shall certify that it has and will maintain liability insurance coverage. Policies, certificates of insurance or current letters documenting all insurance coverage shall be available from the Provider.
- 4) The Provider shall remain liable for the performance of any person, organization, unincorporated association or corporation with which it contracts.

Section 716.400 Subcontracts

- a) Prior, written approval of DHS is necessary for any and all subcontracts.
- b) All subcontracts shall be written, subject to all the provisions of the original Agreement between DHS and the Provider.
- c) The Provider shall remain liable as in Section 716.300.

Section 716.500 Agency Eligibility

All agencies, including not-for-profit agencies, serving Illinois residents with health and/or supportive services (such as an AIDS Task Force, county and municipal health departments, and community based agencies) shall be eligible to apply.

Section 716.600 Staffing Requirements, Qualifications, and Training

- a) There shall be a designated individual in the Provider's agency who has the responsibility for the administration of the case management program.
- b) A CMT shall consist of:
 - 1) A full-time registered nurse (RN) and a full-time social worker, or
 - 2) A half-time registered nurse and one full-time and one half-time social worker.
- c) The qualifications shall be as follows:
 - 1) The RN shall be licensed pursuant to the Illinois Nursing Act of 1987 (Ill. Rev. Stat. 1989, ch. 111, pars. 3501 et seq.), and
 - 2) The social worker shall hold a minimum of a bachelor's degree in social work, social sciences or counseling. A Bachelor's of Social Work or a Master's of Social Work from a school accredited by any organization nationally recognized for the accreditation of schools of social work is preferred.
 - 3) It is preferred but not required that the RN and the social worker shall have a broad knowledge of community resources and networking, case management, and home care.

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- d) It is preferred but not required that the RN and the social worker shall have had experience in working with:
- 1) addictive/dysfunctional family systems;
 - 2) racial and/or ethnic minorities;
 - 3) homosexuals/bisexuals;
 - 4) PWA's; and,
 - 5) substance abusers (i.e., drug users).
- e) Each CMT shall have not more than thirty (30) clients. For the CMT who serves less than 30 clients, the full time requirements may be met proportionately (e.g., clients would require a 1/2 time CMT).
- f) Annually, each member of all CMT's shall undergo a minimum of twelve (12) hours of in-service training which:
- 1) shall be furnished by the provider; and
 - 2) shall be relevant to the provision of services to PWAs (e.g., infectious disease control procedures, sensitivity training, and updates on information relating to treatment procedures).

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Program Description
- 2) Code Citation: 89 Ill. Adm. Code 676
- 3) Section Numbers: 676.30
Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act (20 ILCS 2405/3).
- 5) A Complete Description of the Subjects and Issues Involved: The Department of Human Services is amending Section 676.30(q) to increase the circumstances under which the customer's P.A. services can be provided. This amendment revises the definition of Personal Assistant to reflect the provision of P.A. services out of the home. The amendments eliminate instances where the rules limited the activities the customer could undertake by not allowing services provided in these circumstances to be reimbursed by DHS - Home Services Program (HSP). Specifically, this amendment will allow the Personal Assistants (PA) Service to provide services to the customer while he/she is at work, traveling outside the home and, for persons with the most severe disabilities, while he/she is hospitalized. This revision removes any disincentives to employment by allowing the PA to provide personal care while the eligible customer is at work. The amendment also increases the individual's freedom by allowing PA service, included in the Service Plan, to be provided when the customer travels away from home. This will allow customers to travel to conventions, vacations, and for work and to continue to receive the personal care services described in the HSP service plan.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Warner Weir, Bureau Chief
Bureau of Administrative Rules and Procedures

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 676
PROGRAM DESCRIPTION

SUBPART A: GENERAL PROGRAM PROVISIONS

Section
676.10 Program Purpose and Types
676.20 General Program Accessibility
676.30 Definitions
676.40 Service Description

SUBPART B: CASE MANAGEMENT

Section
676.100 Case Files
676.110 Sharing of Customer Information Between HSP and Other DHS Programs
676.120 Documentation of Information
676.130 Required Customer Signatures and Information
676.140 Application by DHS Employees, Individuals Holding Contracts with DHS, DHS Advisory Council Members, Family Members of DHS Employees, or Close Friends of DHS Employees
676.150 Geographic Case Assignment

SUBPART C: VENDOR PAYMENT

Section
676.200 Vendor Payment
676.210 Reporting and Collection of Misspent Funds

SUBPART D: REFERRAL TO DEPARTMENT ON AGING (DOA)

Section
676.300 Criteria for Referral to DOA
676.310 Disposition of Cases not Appropriate for Referral to DOA

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5095, effective March 21, 1995; amended at 20 Ill. Reg. 6315, effective April 18, 1996; amended at 21 Ill. Reg. 2678, effective February 7, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325, effective July 1, 1997; amended at 22 Ill. Reg. _____, effective _____.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF PROPOSED AMENDMENT

Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis:
A) Types of small businesses, small municipalities and not for profit corporations affected: None
B) Reporting, bookkeeping or other procedures required for compliance: None
C) Types of professional skills necessary for compliance: None
13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: DHS did not anticipate this amendment.
The full text of this Proposed Amendment begins on the next page:

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SUBPART A: GENERAL PROGRAM PROVISIONS

Section 676.30 Definitions

For the purposes of this Subchapter, unless otherwise stated, the following terms shall have the following meanings.

- a) Activities of Daily Living (ADLs) - those tasks an individual must do, or which an individual must have provided for him/her, in order to prevent institutionalization (i.e., bathing, dressing, shopping, cooking, housekeeping, etc.).
- b) Customer - anyone who:
 - 1) has been referred to HSP for a determination of eligibility for services;
 - 2) has applied for services through HSP;
 - 3) is receiving services through HSP;
 - 4) has received services through HSP; or
 - 5) is a parent, family member, guardian, or duly authorized representative of the individual, as appropriate.
- c) Counselor - for the purposes of this Subchapter, the term counselor shall mean the DHS staff person in the local DHS office who has the responsibility for the day-to-day management of the HSP case and case managers for the AIDS Medicaid Waiver Program.
- d) Determination of Need (DON) - the assessment tool used to determine an individual's non-financial eligibility for HSP services based on the individual's impairment and need for care. This form measures the level of risk of institutionalization for the individual.
- e) DHS - Illinois Department of Human Services.
- f) DPA - Illinois Department of Public Aid.
- g) Family - any one related by blood, marriage, or adoption to the individual seeking services through HSP or anyone with whom the individual has a close inter-personal relationship and who resides with the individual.
- h) Family Unit - for the purposes of determining financial eligibility, the number of persons derived when counting the individual seeking services through HSP and the number of persons in the household who are legally responsible for the individual seeking services and for whom the individual seeking services is legally responsible.
- i) HCFA - the Federal Health Care Financing Administration.
- j) HSP - the Home Services Program.
- k) Home - a private residence where the customer lives which is not an intermediate care or skilled nursing facility as defined at 77 Ill. Adm. Code 300, or a residential program operated by, or for which funding is provided by, DHS as defined at 59 Ill. Adm. Code 120. For the purpose of this Subchapter, the term "home" shall include domestic violence shelters as defined in Section 1(c) of the Domestic Violence Shelter Act [20 ILCS 2210/1(c)].
- l) Intermediate Care Facility (ICF) - a nursing facility that provides regular health related care to its residents, as well as those

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services necessary for safe and adequate living.

- m) Individual - the specific person to whom services are provided through HSP.
- n) Legally Responsible Family Member - a spouse, parent or a child who is 20 years of age or under, or a legal guardian of an individual who is under age 18.
- o) Medicaid - the Medicaid program administered by DFA under the Public Aid Code [305 ILCS 5/11].
- p) Medicaid Waiver - the waiver allowing HSP to claim federal reimbursement for approved levels of in-home care for individuals who would otherwise be placed in institutions for such care. The Medicaid Waiver is overseen at the federal level by HCFA.
- q) Personal Assistant (PA) - an individual employed by the customer to provide through HSP varied services that have been approved by the customer's physician ~~in-the-customer's-home-through-HSP~~.
- r) Physician - a licensed doctor of medicine (M.D.) or doctor of Osteopathy licensed pursuant to the Medical Practice Act [225 ILCS 60].
- s) Prescreening - an assessment to determine an individual's need for institutional care at the ICF or SNF level care, to ensure Medicaid payment for such a placement is appropriate, and the assessment as to whether or not HSP services are an appropriate alternative to institutional care for the individual.
- t) Service Cost Maximum (SCM) - the maximum monthly amount which may be expended for HSP services for an eligible individual. This amount is determined based on the individual's DON score and the specific programmatic component of HSP through which the individual is being served.
- u) Service Plan - specifically, the HOME SERVICES PROGRAM SERVICE PLAN (IL 488-1049) or HOME SERVICES PROGRAM SERVICE PLAN ADDENDUM (IL 488-1050) forms, on which all services to be provided an individual through HSP are listed.
- v) Services - The necessary tasks provided to an individual, in one or more of the areas listed in Section 676.40 and listed on the individual's Service Plan, through HSP with the intent of preventing the unnecessary institutionalization of the individual.
- w) Skilled Nursing Facility (SNF) - A facility that provides regular and on-going nursing level care to its residents due to the residents' medical conditions, as well as those services necessary for safe and adequate living.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment

2) Code Citation: 89 Ill. Adm. Code 686

<u>Section Numbers:</u>	<u>Proposed Action:</u>
686.900	New Section
686.910	New Section
686.920	New Section
686.930	New Section
686.940	New Section

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

5) A Complete Description of the Subjects and Issues Involved: The Department is proposing a repealer of the previous HSP AIDS rules at 89 Ill. Adm. Code 716 and is adding Subpart J: Case Management Services to Persons with AIDS. This rulemaking describes the Case Management Services purchased by the Home Services Program. It delineates the Provider's Responsibilities, Staffing Requirements, Qualifications, Training Requirements, Monitoring Liability Requirements of the Provider and Provider Compliance Requirements. These revisions are consistent with the AIDS Waiver approved by the federal government.

6) Will this proposed rule replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This does not affect units of local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issues of the Illinois Register. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield IL 62762

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(217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER IV: DEPARTMENT OF HUMAN SERVICES

SUBCHAPTER d: HOME SERVICES PROGRAM

PART 686

PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

SUBPART A: PERSONAL ASSISTANTS

Section

686.10 Personal Assistant (PA) Requirements
 686.20 Services Which May Be Provided by a PA
 686.30 Annual Review of PA Performance
 686.40 Payment for PA Services

SUBPART B: ADULT DAY CARE PROVIDERS

Section

686.100 Adult Day Care (ADC) Provider Requirements
 686.110 Services Which Must Be Provided by ADC Providers
 686.120 Annual Compliance Review of ADC Providers
 686.130 Appeal of Compliance Review for ADC Providers
 686.140 Payment for ADC Services

SUBPART C: HOMEMAKER SERVICES

Section

686.200 Homemaker Service Provider Requirements
 686.210 Services Which Must Be Provided by Homemaker Agencies
 686.220 Annual Compliance Review of Homemaker Agencies
 686.230 Appeal of Compliance Review for Homemaker Agencies
 686.240 Payment for Homemaker Services

SUBPART D: ELECTRONIC HOME RESPONSE SERVICES

Section

686.300 Electronic Home Response Services (EHRS) Provider Requirements
 686.310 Services Which Must Be Provided by EHRS Providers
 686.320 Minimum Specifications for EHRS Equipment
 686.330 Annual Compliance Review of EHRS Providers
 686.340 Appeal of Compliance Review for EHRS Providers
 686.350 Rate of Payment for EHRS Services

SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section

686.400 Maintenance Home Health Provider Requirements
 686.410 Rate of Payment for Maintenance Home Health Services

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SUBPART F: HOME DELIVERED MEALS

Section

686.500 Home Delivered Meals Provider Requirements
 686.510 Rate of Payment for Home Delivered Meals

SUBPART G: ENVIRONMENTAL MODIFICATION

Section

686.600 Environmental Modification Provider Requirements
 686.610 Cost of Environmental Modification
 686.620 Permanency of Environmental Modification
 686.630 Reason for Denial of Environmental Modification
 686.640 Verification of Environmental Modification

SUBPART H: ASSISTIVE EQUIPMENT

Section

686.700 Assistive Equipment Provider Requirements
 686.710 Provision of Assistive Equipment
 686.720 Verification of Receipt of Assistive Equipment

SUBPART I: RESPIRE CARE

Section

686.800 Respite Care Provider Requirements

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section

686.900 Program Overview
 686.910 Case Management Provider Responsibilities
 686.920 Provider Staffing Requirements, Qualifications, and Training
 686.930 Monitoring and Liability of Provider
 686.940 Provider Compliance Requirements

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5104, effective March 21, 1995; amended at 20 Ill. Reg. 12479, effective August 28, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9375; amended at 22 Ill. Reg. _____, effective _____.

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section 686.900 Program Overview

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The Department of Human Services (DHS) shall enter into agreements with agencies to provide case management services to persons with AIDS, which includes persons with human immunodeficiency virus (HIV) infection, who are eligible for services provided by the AIDS Medicaid Waiver. For geographical areas in Illinois in which case management agencies are not located, case management shall be provided by DHS Home Services counselors, utilizing licensed home health nurses as needed to comply with the services offered and the requirements contained in Section 686.910(b), (c), (d) and (e).

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 686.910 Case Management Provider Responsibilities**a) Case Management Teams**

1) The case management agency (hereafter referred to as provider) shall receive customer referrals from hospitals, the Illinois Department of Public Health's AIDS Hotline, HSP AIDS Unit, other State and local agencies, and other referral services (e.g., doctors and individuals). The provider shall assign a case management team (CMT) to each customer.

2) The CMT shall have full responsibility for the determination of eligibility, including assessment, development of plans of care, and arrangement and implementation of services to be provided. There shall be two levels of CMTs, Provisional CMTs and CMTs. Provisional CMTs are those that have not achieved a competency score of 98% or greater for the on-site case reviews done by the HSP AIDS Unit, Section 686.930(d). Assessments, service plans and reassessments completed by CMTs may be implemented without consultation with the HSP AIDS Unit. Provisional CMTs shall submit all developed plans to the HSP AIDS Unit for approval. Approval of the plan will be based on a review to determine that: the Determination of Need Assessment on which the plan is developed is complete and accurate; the plan meets the needs identified by the assessment; the plan does not place the customer's health and safety at risk; the plan is cost effective compared to comparable institutional care; and the plan has been approved by the customer's physician.

b) The CMT shall provide the following services:

- 1) Initial assessment of eligibility and information gathering (89 Ill. Adm. Code 682);
- 2) development of a care plan and implementation (89 Ill. Adm. Code 684);
- 3) reassessment of level of care at least every six months for those cases in formal eligibility, three months for those cases that have been presumptively determined eligible for interim services (89 Ill. Adm. Code 684.80), or at such time when the customer's financial or physical condition or need for services changes;

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- 4) networking/coordination/brokering services (i.e., referring and assisting the customer in obtaining other agencies' services);
- 5) assisting the customer when personal assistance problems develop. Documentation of these problems and the case management team's responses will be kept in the customer's case file;
- 6) counseling and advocacy;
- 7) acting as inter-agency liaison (e.g., with other DHS programs, vendors, hospitals);
- 8) contacting customer a minimum of three times per month, one contact being a face-to-face visit;
- 9) maintaining and updating customer records; and
- 10) monitoring the cost effectiveness of the service plan (89 Ill. Adm. Code 679.50).

c) Eligibility for AIDS Waiver

1) Within 10 working days (exceptions being 2 working days for prescreening referrals from cooperating hospitals for interim/emergency services, 5 working days for all other prescreening for interim/emergency services) after receipt of a referral, the CMT shall complete an individual's eligibility determination for the AIDS Waiver program.

2) The CMT shall determine customer eligibility for the AIDS Waiver by completing an assessment from a home visit or while the applicant is hospitalized (89 Ill. Adm. Code 682). To determine customer eligibility, the CMT will utilize the HSP Determination of Need Assessment (89 Ill. Adm. Code 682).

3) The CMT shall assess the customer's limitations in activities of daily living (ADLs) (e.g., cooking, bathing, shopping) and what resources are available to assist the customer in performing the ADLs (89 Ill. Adm. Code 682).

4) Notice of eligibility must be mailed to the HSP AIDS Unit within ten working days after the date on which a completed application is received by the case management contracting agency.

d) The CMT will provide a case action notice to each customer informing him or her of the eligibility determination, of all rights and responsibilities under the case management program, including the customer's right to request an appeal, the appeals procedures promulgated by the Department, the right to receive assistance in filing the request for appeal and information about the services of the Client Assistance Program (CAP) and how to reach CAP.

e) Service Plan

1) If the assessment demonstrates the need for intermediate care facility (ICF), skilled nursing facility (SNF), or hospital care because of the disability of AIDS/HIV, the CMT shall develop a service plan that will allow the customer to live at home (89 Ill. Adm. Code 684.70).

2) The service plan will be retained during the time the case is opened and for five years after closure, unless an audit exception has occurred. In the case of an audit exception, the

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service plan will be retained until the audit exception has been resolved. Copies of the service plan will be maintained in the case management team's locations and the HSP AIDS Unit. Closed cases will be retained in the HSP Central Office.

3) The service plan shall be approved by the customer's physician. If the plan is not approved by the customer's physician, it cannot be implemented and the customer cannot be served under the AIDS Waiver.

4) If implementation of services is delayed beyond required time limits in subsection (c) of this Section, the CMT must inform the HSP AIDS Unit and assist the customer to obtain an alternative provider.

f) Records of contact with the customer will be entered and maintained in the customer's confidential case records. All contacts, verbal or written, with or on behalf of a customer shall be documented in a confidential case record. The CMT is responsible for obtaining consents for the release of information as necessary and when required by law or regulation.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 686.920 Provider Staffing Requirements, Qualifications, and Training

a) Each provider agency shall designate an individual who will be responsible for the administration of the case management program.

b) The CMT shall consist of:

- 1) A full-time registered nurse (RN) and a full-time social worker;
- or
- 2) A half-time registered nurse and one full-time and one half-time social worker.

c) The qualifications shall be as follows:

- 1) The RN shall be licensed pursuant to the Illinois Nursing Act of 1987 [225 ILCS 65].
- 2) The social worker shall hold a minimum of a bachelor's degree in social work, social sciences or counseling. A Bachelor's of Social Work or a Master's of Social Work from a school accredited by any organization nationally recognized for the accreditation of schools of social work is preferred.

3) It is preferred, but not required, that the RN and the social worker have a broad knowledge of community resources and networking, case management, and home care.

d) It is preferred, but not required, that the RN and the social worker have experience in working with:

- 1) addictive and dysfunctional family systems;
- 2) racial and ethnic minorities;
- 3) homosexuals and bisexuals;
- 4) persons with AIDS; and

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5) substance abusers (e.g., drug users).

e) Each CMT shall have no more than 30 customers. For CMTs that serve fewer than 30 customers, the full-time requirements may be met proportionately (e.g., 15 customers would require a 1/2 time CMT).

f) Annually, each member of the CMT shall undergo a minimum of 12 hours of in-service training that:

- 1) shall be furnished by the provider; and
- 2) shall be relevant to the provision of services to persons with AIDS (e.g., infectious disease control procedures, sensitivity training, and updates on information relating to treatment procedures).

g) Roles of the social worker and nurse shall be differentiated and defined.

- 1) Social Worker role - completing, with the cooperation of the nurse, the assessment and any necessary reassessments, networking, counseling, weekly contact, advocacy, and other duties not covered by the nurse. The social worker is the primary member of the CMT.

2) Nurse role - to review and advise the CMT on the health aspects of the assessment and reassessments and to act as a liaison with hospital discharge planner, physician, home health agencies and other medical provider agencies.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 686.930 Monitoring and Liability of Provider

a) The HSP AIDS Unit shall monitor the provider to assure compliance with this Subpart by:

- 1) reviewing and approving the assessment (Section 686.910(c)). The review will be conducted pursuant to the DHS Home Services Program (89 Ill. Adm. Code 682), the service plan and payments for services;

2) reviewing provisional CMTs as set forth in subsection (d) of this Section;

3) reviewing, on an annual basis, a random sample 10% of the cases handled in the preceding 12 months or two cases, whichever is greater;

4) the Supervisor of the AIDS Unit visiting, at least annually, all contracting case management agencies.

b) The HSP AIDS Unit shall monitor the service plans of customers served by a CMT to ensure that:

- 1) The CMT is monitoring the customer's case at least monthly by carrying out at least one face-to-face visit and two other contacts with the customer;
- 2) The CMT is reassessing the service plan at least every six months for those cases in formal eligibility and every three months for

DEPARTMENT OF HUMAN SERVICES

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- those cases that have been presumptively determined eligible;
- Each of the reassessments undertaken by the CMT is complete and accurate;
- 3) Any amendments to the service plan are consistent with the findings of the reassessment;
 - 5) The service plan remains cost effective (i.e., the cost of the service plan is equal to or less than the State's hospital costs); and
 - 6) The service plan is approved by the customer's physician.
- c) DHS, Office of Rehabilitation Services, Central Office quality assurance staff shall:
- 1) monitor the quality of the reviews conducted annually;
 - 2) provide case reviews of selected cases Statewide; and
 - 3) tabulate the findings from all reviews to determine accuracy levels, Statewide need for training and individual training needs.
- d) All case managers of Provisional CMTs will work toward meeting the CMT standards within six months after receiving the HSP AIDS Unit's Case Management Training. Complete CMT status will be granted when six case file reviews attain a competency score of 98-100% using the review process described in this subsection (d).
- 1) The HSP AIDS Unit nurse will review three case files within three months from the end date of the Case Management Training for the CMT. The CMT's case manager will be present and have the Case Manager Training Manual.
 - 2) The nurse will review each case file using the HSP AIDS Unit case file review quality assurance form.
 - 3) Using the Case Management Training Manual, the nurse will discuss each deficiency with the case manager.
 - 4) A corrective action plan will be developed by the nurse for the case manager to resolve all deficiencies in the case files.
 - 5) The case manager will implement the corrective action plan and complete all items prior to the next review of case files.
 - 6) The nurse will review all files noted in the corrective action plan for compliance with case management practices.
 - 7) The above process will continue until the cases reviewed for the case manager meet a 98-100% compliance score on six case file reviews.
- e) A CMT shall return to provisional status when any of the following events occur:
- 1) A review of files, per this Section, results in a score of 89% or less;
 - 2) Within the last year, HSP staff has made five requests for materials that were not submitted on time; or
 - 3) The CMT has made an assessment or reassessment visit in the home without both members present for the visit.
- Prior to the initiation of action to return a CMT to provisional status, the case manager of the CMT will be sent a letter outlining

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the issues. The case manager will have 10 days to respond. The CMT will be returned to provisional status unless the case manager can prove the event causing the action did not occur. Once a CMT is returned to provisional status it must complete the measures outlined in subsection (d) of this Section.

f) Liability

- 1) DHS shall assume no liability for actions of the provider under the Agreement.
- 2) The provider shall agree to hold DHS harmless against any and all liability, loss, damage, cost or expenses arising from wrongful or negligent acts of the provider.
- 3) The provider shall certify that it has maintained and will maintain liability insurance coverage. Upon request, the provider should make available policies, certificates of insurance or current letters documenting all insurance coverage.
- 4) The provider shall remain liable for the performance of any person, organization, unincorporated association or corporation with which it contracts.

(Source: Added at 22 Ill. Reg. _____, effective _____)

Section 686.940 Provider Compliance Requirements

In order to participate in the DHS program to provide services to persons with AIDS, the provider agrees to meet the following minimum requirements that shall be reviewed by DHS annually for compliance.

- a) Organization and Administration: The provider shall make available, upon request, its articles of incorporation, or if an unincorporated association (e.g., partnerships and limited partnerships) shall provide a statement of purpose and functions, and the names and addresses of its owners, partners, or general partners.
- b) Audits: DHS reserves the right to audit all records and accounts pertinent to this Agreement at any time within five years after final completion date of the Agreement.
- c) Policies and Procedures: The provider shall have written policies approved by its governing authority (e.g., Board of Directors) and available for review by customers and purchasers of the service. Such policies shall at a minimum cover:
 - 1) Service Provided: Policy shall designate the type and scope of service provided. When more than one type of service is offered, there shall be a clear distinction between each type provided.
 - 2) Personnel Policies: Policies shall cover salary schedules, hours of work, sick leave, provision for handling employee grievances, and requirements for attendance at work conferences and training sessions. There shall be written job descriptions identifying required qualifications and duties for each title. Policies shall

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also include the Centers for Disease Control and Prevention (CDC) recommendations for health care workers for provision of services to persons with AIDS and the Illinois statutes regarding AIDS, including the AIDS Confidentiality Act [410 ILCS 305].

d) State and Federal Statutes

- 1) All providers shall be subject to compliance with Illinois statutes governing conflict of interest (Sections 11.1-11.5 of the Illinois Purchasing Act [30 ILCS 505/11.1-11.5]).
- 2) All providers shall agree to comply with the Civil Rights Restoration Act of 1987 (P.L. 100-259), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Illinois Human Rights Act [775 ILCS 5], the Constitution of the United States, the 1970 Constitution of the State of Illinois and any laws, regulations or orders, State or Federal, that prohibit discrimination on the basis of race, color, sex, religion, national origin, ancestry, age, marital status, inability to speak or comprehend the English language, physical or mental handicaps, or unfavorable discharge from military service.
- 3) The provider shall comply with Section 290ee-3 of the Federal Drug Abuse Confidentiality Act (42 U.S.C. 290ee-3) and the AIDS Confidentiality Act [410 ILCS 301].

- e) Non-compliance: If the provider is not in compliance with the requirements of this Subpart, corrective actions up to and including termination of the contract may be taken.

(Source: Added at 22 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Temporary Relocation Expenses

- 2) Code Citation: 23 Ill. Adm. Code 145

- 3) Section Numbers:
 145.10 Amendment
 145.20 Amendment
 145.30 Amendment
 145.40 Repealer
 145.50 Amendment
 145.60 New
 Table A Repealer

- 4) Statutory Authority: 105 ILCS 5/2-3.77

- 5) A Complete Description of the Subjects and Issues Involved: These amendments respond to P.A. 90-464, which was enacted in August of 1997 and amended Section 2-3.77 of the School Code dealing with temporary relocation expenses.

School districts which experience certain "qualifying events" have been eligible to receive State funds to offset their related expenses. Until passage of this new law, those funds took the form of loans. One aspect of P.A. 90-464 was to expand the list of qualifying events to include other natural or man-made disasters or condemnation of school buildings. Another important addition was to make available grants that will not require repayment, for use when districts forecast expenses in excess of the insurance proceeds and tax revenues they can expect to realize.

The proposed amendments contain provisions permitting districts to apply for both loan and grant funds in one combined application and describing the required content of their applications. Other changes are being proposed to update references and remove some of the existing rules' prescriptiveness. In particular, Section 145.40 is being repealed; districts will no longer have to submit all their bills to the agency. This is being done in light of the fact that districts must retain this information and make it available for audit, which serves the same purpose without an extra paperwork burden. In the same vein, Table A has only served to convey material already present in the Program Accounting Manual (23 Ill. Adm. Code 110) and is not needed here.

- 6) Will this proposed rule replace an emergency rule currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed amendments contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

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10) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-284
Springfield, Illinois 62777-0001
217/782-0541

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the proposed amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER c: FINANCE

PART 145

TEMPORARY RELOCATION EXPENSES

Section	Table A	Accounting Entries (Repealed)
145.10	Definitions	
145.20	General Requirements	
145.30	Allowable Expenses	
145.40	Documentation (Repealed)	
145.50	Accounting Requirements	
145.60	Determination of Loan and Grant Amounts	

TABLE A Accounting Entries (Repealed)

AUTHORITY: Implementing and authorized by Section 2-3.77 of the School Code [105 ILCS 5/2-3.77] (see P.A. 90-464, effective August 17, 1997).

SOURCE: Adopted at 10 Ill. Reg. 15060, effective August 28, 1986; amended at 22 Ill. Reg. _____, effective _____.

Section 145.10 Definitions

"Expenses" means the costs incurred by the board of education directly responsible for implementing the temporary relocation. Expenses shall be paid on a reimbursable basis subject to audit by the State Board of Education in accordance with Section 2-3.32 of the School Code [105 ILCS 5/2-3.32] ~~(Ill.-Rev.-Stat.-1905, ch.-122, par.-2-3.32) and this Part the rules contained herein.~~

"Qualifying event" means the destruction of a building as a result of fire, earthquake, tornado, other natural or man-made disaster, or condemnation pursuant to Section 3-14.22 of the School Code.

"Relocation" means the movement of students, equipment necessary for temporary relocation purposes, personnel, and records to a facility other than that to which they were previously assigned, as a result of a fire, earthquake, or tornado, other natural or man-made disaster, or condemnation pursuant to Section 3-14.22 of the School Code [105 ILCS 5/3-14.22] ~~relocation also includes the subsequent movement to a permanent facility.~~

"Temporary" means persisting only that period of time commencing from the occurrence of a fire, earthquake, or tornado that results in the destruction of an attendance center, thus requiring the removal of

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students-to-another-location-for-educational-purposes, from the date of the qualifying event until such time as permanent facilities are available for those students who have been displaced, as determined by the regional superintendent of schools responsible for the affected school district.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 145.20 General Requirements

- a) The school board of a district making initial application for a temporary relocation expense loan or grant shall adopt and submit to the State Board of Education along with its application:
 - 1) a resolution levying the tax provided for by Section 17-2.2c of the School Code [105 ILCS 5/17-2.2c] at the maximum rate permitted thereunder, in order to repay the State of Illinois for funds received pursuant to this Part, and agreeing to submit the levy proceeds to the State Board within thirty days after their receipt by the district; and
 - 2) a resolution encumbering all insurance proceeds payable to the district for relocation expenses for the affected facility and providing that such proceeds shall be paid to the State Board of Education within thirty days after their receipt by the district.
- b) Each application shall indicate:
 - 1) whether the application is for a loan, a grant, or both;
 - 2) the date and nature of the qualifying event leading to the application;
 - 3) that the school board has adopted a plan to house the displaced students permanently;
 - 4) the time required to effect the permanent solution described in the plan;
 - 5) an estimate of the necessary temporary relocation expenses to be incurred and a description of the necessity for them;
 - 6) an estimate of the amount of insurance proceeds to be received;
 - 7) an estimate of the amount of funds that can be raised through the levy of the tax called for in Section 17-2.2c of the School Code;
 - 8) the amount which the district does not expect to be able to repay to the State Board of Education from funds realized under subsections (b)(6) and (7) and for which an outright grant is requested, if any; and
 - 9) an agreement to comply with Section 2-3.77 of the School Code and this Part and to authorize the State Board of Education to deduct from the district's general State aid any amount owed to the State Board under this Part which is in default.
- c) Applications shall be considered on a first come, first served basis as long as funds remain available. Districts otherwise eligible but not receiving a loan or grant due to insufficiency of the

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appropriation shall receive first consideration in the subsequent fiscal year.

- a) Temporary relocation expenses allocated by the State Board of Education shall not exceed the amount appropriated by the General Assembly for the purposes of Section 2-3.48 of the School Code (Ill. Rev. Stat. 1985, ch. 122, par. 2-3.48). When the money appropriated by the General Assembly in any fiscal year is not sufficient to cover the sum of the approvable requests for temporary relocation expenses during that fiscal year, the State Board of Education shall make a pro rata allocation of the appropriation.
- b) A school district making application for temporary relocation expenses shall adopt and submit to the State Board of Education a resolution authorizing a levy at the maximum rate permitted under Section 17-2.2c of the School Code (Ill. Rev. Stat. 1985, ch. 122, par. 17-2.2c), and further stating that the proceeds of such levy shall be paid to the State Board of Education according to the terms specified in Section 2-3.48 of the School Code and within thirty (30) calendar days of their receipt.
- c) A school district making application for temporary relocation expenses shall also adopt and submit to the State Board of Education a resolution encumbering all insurance proceeds payable to the district for relocation expenses as a result of the fire, earthquake, or tornado, and providing that such proceeds shall be paid to the State Board of Education according to the terms specified in Section 2-3.48 of the School Code and within thirty (30) calendar days of their receipt.
- d) The State Board of Education shall deposit payments received pursuant to subsections (c) and (d) of this Section in the General Revenue Fund of the State of Illinois following the distribution of money appropriated for the purpose of Section 2-3.48 of the School Code but in no case more than thirty (30) calendar days following the receipt of payments after the distribution of the appropriated moneys.
- e) A school district's payments to the State Board of Education pursuant to subsections (c) and (d) of this Section shall not in the aggregate exceed the moneys distributed to the school district pursuant to Section 2-3.48 of the School Code and this Part.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 145.30 Allowable Expenses

Allowable temporary relocation expenses include shall fall within one or more of the following categories:

- a) Lease: Leases include contracts for the purpose of providing attendance centers for displaced students; for securing any necessary equipment for operating such attendance centers; and for providing pupil transportation services to such the attendance centers

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center.

- b) Rental: Rental may include the items in subsection (a) of this Section when a rental agreement may be more advantageous to the school district than entering into a lease contract. For example, this ~~this~~ may occur where the rental agreement covers a period of time that will be less than that obtainable through a lease contract.
- c) Renovation of leased or rental educational facilities: Renovation expenses shall be allowed only to the extent necessary to bring a leased or rented facility into compliance with the applicable minimum requirements of the Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180) 29--iii--Adm--Code-175--(efficient-and-Adequate Standards-for-the-Building--Specifications--for--the--Construction--of Schools)--or--185--(Building--Specifications--for--Health-and-Safety-in Public-Schools)--as-applicable-to-the-facility.
- d) Transportation: Transportation expenses shall be allowed only to the extent that they exceed the normal transportation expenses incurred by the district in the year immediately preceding the qualifying event occurrence-of-the-fire--earthquake--or-tornado.
- e) Salaries: Salaries shall be allowed only to the extent that they exceed normal operating salaries of the school district in the year prior to the qualifying event occurrence and shall be documented as necessary for relocation.
- f) Architect fees Fees: Architect fees shall be allowed only to the extent that they are documented as necessary for relocation. Such fees they shall not be allowable for planning, design, renovation, rehabilitation, or construction for any replacement facility, nor for alteration of a damaged facility.
- g) Attorney fees Fees: Attorney fees shall be allowed only to the extent that they are documented as necessary for relocation, including for go--the--extent--such--fees--are--necessary--for--the--filing--of--the--levy authorized by Section 17-2.2c of the School Code and the filing of any insurance claim arising out of a qualifying event from--an occurrence--arising--under--the--provisions--of--Section-2-3.48--of--the School-Code--they--shall--be--allowed.
- h) Utilities: Utility expenses will be allowed only to the extent that they exceed the normal utility expenses of the school district in the year prior to the qualifying event occurrence--necessitating--the relocation.
- i) Interest: Interest expense is allowable if incurred due to borrowing in anticipation of the receipt of funds pursuant to this Part.
- j) Other expenses Expenses: A school district may apply for other expenses (e.g., insurance, equipment maintenance, sanitary services, property services, or supplies) only to the extent that they exceed the normal expenses of the school district in the year immediately preceding the qualifying event year and are documented as being directly necessitated by the cause for relocation.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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_____)

Section 145.40 Documentation (Repealed)

~~Expenses allowable under Section 140-30 of this Part shall be documented as to the manner in which they relate directly to temporary relocation expenses. Such documentation--(e.g.,--paid--invoices,--cancelled--checks,--or--school--board resolutions--approving--payment)--shall--be--submitted--through--the--regional superintendent--to--the--State--Board--of--Education--shall--include--evidence--of bidding--procedures--used,--where--applicable,--under--Section--10-20-21--of--the--School Code--(Ill.-Rev-Stat--1987--ch--123--par--10-20-21)--and--shall--include--proof--of payment--for--all--bills--submitted--by--the--school--district.~~

(Source: Repealed at 22 Ill. Reg. _____, effective _____)

Section 145.50 Accounting Requirements

a) When money appropriated for temporary relocation expenses is received by a school district, the money shall be deposited in the fund(s) from which such expenses were or will be paid and shall be accounted for in accordance with the Program Accounting Manual (23 Ill. Adm. Code 110) ~~provided--among--the educational--fund,--the--operations,--building--and--maintenance--fund--(08-6-M--Fund),--and--the--transportation--fund,--on--the--basis--of--the--expenditures--made--from--each fund--(See--Accounting--Entry--17--Table--A--of--this--Part).~~

b) When insurance proceeds are received by the school district, they shall be recorded in the appropriate fund (See Accounting Entry 27 Table A).

c) When proceeds from the tax levied in accordance with Section 17-2.2c of the School Code are received, they shall be recorded in the appropriate fund (See Accounting Entry 3, Table A).

d) When repayments are made to the State of Illinois, each repayment shall be recorded in the proper fund (See Accounting Entry 4, Table A).

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 145.60 Determination of Loan and Grant Amounts

a) The amount of each loan provided pursuant to this Part shall be based on allowable expenses identified in the district's application, the estimated insurance proceeds to be realized, and the yield from the tax levied as provided in this Part.

b) The amount of each grant provided pursuant to this Part shall be based on the amount by which allowable expenses identified in the application exceed the total of the estimated insurance proceeds and the yield of the tax over a seven-year period.

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(Source: Added at 22 Ill. Reg. _____, effective _____)

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Section 145. TABLE A Accounting Entries (Repealed)

ACCOUNTING ENTRIES (See 23-III-Adm-Code-110)

Accounting-Entry-1:	
Br- 10-101	Cash-(Educational-Fund)
Cr-	Due--to-other-governmental-unit--(State-of Illinois)
Br- 20-101	Cash-(OB-6-M-Fund)
Cr-	Due-to-other-governmental-unit--(State--of Illinois)
Br- 40-101	Cash-(Transportation-Fund)
Cr-	Due--to-other-governmental-unit--(State-of Illinois)
Accounting-Entry-2:	
Br- 10-101	Cash-(Educational-Fund-if-applicable)
and/or	
Br- 20-101	Cash-(OB-6-M-Fund-if-applicable)
and/or	
Br- 40-101	Cash-(Transportation-Fund-if-applicable)
Cr-	Compensation--for--Loss--of--Assets---(if applicable)
Cr-	Compensation---for--Loss--of--Assets---(if applicable)
Cr-	Compensation--for--Loss--of--Assets---(if applicable)
Accounting-Entry-3:	
Br- 10-101	Cash-(Educational-Fund)
and/or	
Br- 20-101	Cash-(OB-6-M-Fund)
and/or	
Br- 40-101	Cash-(Transportation-Fund)
Cr-	Other-Tax-Revenues
Cr-	Other-Tax-Revenues
Cr-	Other-Tax-Revenues
Accounting-Entry-4:	
Br- 10-420	Due--to-other-governmental-unit--(State-of Illinois)
Cr-	Cash-(Educational-Fund)
Br- 20-420	Due-to-other-governmental-unit--(State--of Illinois)
Cr-	Cash-(OB-6-M-Fund)
Br- 40-420	Due--to-other-governmental-unit--(State-of Illinois)
Cr-	Cash-(Transportation-Fund)

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(Source: Repealed at 22 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Approval of Voting Systems

2) Code Citation: 26 Ill. Adm. Code 204

3) Sections Numbers: Proposed Action:
204.40 Amend
204.120 Amend

4) Statutory Authority: Implements Articles 24A and 24B, and authorized by Section 1A-8(9), 24A-17 and 24B-17 of the Election Code [10 ILCS 5/Arts. 24A and 24B, 1A-8(9), 24A-17, 24B-17]

5) A Complete Description of the Subjects and Issues Involved: Amendments to Section 204.40 add a requirement to the criteria for approval of voting systems that, not later than April 1, 1999, all electronic voting systems in use in Illinois will be modified, if they are not already compliant, so that they will not fail to operate or operate correctly on and after January 1, 2000. Amendments to Section 120 provide that the State Board of Elections will begin decertification procedures for electronic voting systems that have not been certified as compliant with the criteria by April 1999, and establishes a schedule for proceedings for withdrawal of approval.

6) Will these amendments replace emergency rule currently in effect? No

7) Does the rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives:

207.40 Ensures that all voting systems used to count votes in Illinois will not be affected by the so-called "Year 2000 Bug," the operating system problem anticipated at the new millennium for computer systems unprepared to calculate dates using a four digit year format rather than a two-digit format.

204.120 Ensures that system decertification takes place in an orderly fashion, allowing election authorities sufficient time to replace non-compliant electronic voting systems.

Any possible mandate imposed by this rulemaking is nevertheless not reimbursable under Sections 3(c) and 6(c) of the State Mandates Act [30 ILCS 805/3(c) and 6(c)].

11) Time, Place and Manner in which interested persons may comment on this

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proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to the:

State Board of Elections
A. L. Zimmer, General Counsel
James R. Thompson Center
100 West Randolph Street
Suite 14-100
Chicago IL 60601
312/814-6477

or at a Public Hearing to be held on May 18, 1998 at the James R. Thompson Center, 100 W. Randolph Street, Chicago, Illinois and on May 26, 1998 at the State Board of Elections principal office located at 1020 Spring Street, Springfield, Illinois. Please contact the Board's offices for verification of hearing time, room and date.

12) Initial Regulatory Flexibility Analysis:

A) Date rule was submitted to the Small Business Office of the Department of Commerce and Community Affairs: April 21, 1998

B) Types of Small businesses affected: Election Supply and Services Vendors

C) Reporting, bookkeeping or other procedures required for compliance: None

D) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: These amendments were not included on either of the 2 most recent Regulatory Agendas because: the problem which these amendments address was not brought to the attention of the State Board of Elections until March 1998, when it was raised in a need study written by the Board's consultants reporting on alternative options for a statewide voter registration database.

The full text of the Proposed Amendments begins on the next page:

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TITLE 26: ELECTIONS
CHAPTER I: STATE BOARD OF ELECTIONS

PART 204

APPROVAL OF VOTING SYSTEMS

Section

204.10	General Provisions
204.20	Definitions
204.30	Jurisdiction Profile
204.40	Criteria for Approval of Voting Systems
204.50	Application for Approval of Voting Systems
204.60	Preliminary Determination and Review of the Proposed Voting Systems
204.70	Full Review Procedures
204.80	Hearing to Consider Staff Review Report
204.90	Interim Approval of Voting Systems
204.100	Final Approval of Voting Systems
204.110	Refusal to Grant Approval of Voting Systems
204.120	Withdrawal of Approval of Voting Systems
204.130	Subsequent Modification of Voting Systems
204.140	Monitoring of Voting Systems
204.150	Voting Systems in Use on the Effective Date of These Rules
204.160	Emergency Approval of a Voting System
204.170	Jurisdiction of Election Authority over Voting System's Personnel
204.180	Number of Voting Booths

AUTHORITY: Implementing Articles 24A and 24B and authorized by Section 1A-8(9) of the Election Code [10 ILCS 5/Arts. 24A and 24B and 1A-8(9)].

SOURCE: Adopted at 2 Ill. Reg. 25, p. 70, effective July 3, 1978; codified at 6 Ill. Reg. 7216; amended at 9 Ill. Reg. 10733, effective July 1, 1985; amended at 11 Ill. Reg. 18655, effective October 30, 1987; amended at 15 Ill. Reg. 18144, effective December 4, 1991; amended at 22 Ill. Reg. _____, effective _____.

Section 204.40 Criteria for Approval of Voting Systems

- a) A full review of voting system shall be conducted to ensure that no voting system shall be approved unless it fulfills the following requirements as set forth in Section 24A-16 of the Election Code:
- 1) It enables a voter to vote in absolute secrecy;
 - 2) It enables a voter to vote a straight party ticket;
 - 3) It enables a voter to vote a ticket selected in part from the nominees of one party, and in part from the nominees of any or all parties, and in part from independent candidates and in part of candidates whose names are written in by the voter;
 - 4) It enables a voter to vote a written or printed ticket of his own selection for any person for any office for whom he may desire to

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vote;

- 5) *It will reject all votes for an office or upon a proposition when the voter has cast more votes for such office or upon such proposition than he is entitled to cast;*
- 6) *It will accommodate all propositions to be submitted to the voters in the form provided by law or, where no such form is provided, then in brief form, not to exceed 75 words;*
- 7) *Not later than April 1, 1999, it will be modified if necessary so that it will not fail to operate and will operate correctly on and after January 1, 2000.*

- b) Any review of a voting system shall consist of an evaluation of the characteristics of the system in order to determine what set of characteristics are needed to enable the system to fulfill the requirements set forth in subsection (a) above, such as:

- 1) Physical characteristics, including design, engineering, materials and ability to communicate;
- 2) Software performance, including, to the maximum extent possible, a review of application programs, audit trails of overvotes and undervotes, duplicate programs, object code, source code, support software, data integrity, media security, and multi-programming;
- 3) Ballot and voting characteristics such as the capacity of the ballot to contain multiple configurations;
- 4) Ballot processing characteristics, including the preparation, accurate tabulation for both primary and general election ballots and transportation of ballots;
- 5) Function and service characteristics, including the interaction and relationship, if any, of non-election related system functions with election related functions;
- 6) Human performance standards such as extent of training and degree of manual dexterity needed;
- 7) Management standards, including setup, maintenance and security procedures.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 204.120 Withdrawal of Approval of Voting Systems

- a) If, at any time subsequent to the Board's approval or interim approval of a voting system, the Board determines that the approved voting system fails to fulfill the criteria prescribed in Section 204.40 of this Part, the Board shall notify any users or vendors of that particular voting system that the Board's approval of that system is to be withdrawn. Such notice shall be in writing, shall specify the reasons why approval of the system is being withdrawn, and shall specify the date on which the withdrawal is to become effective.
- b) Any vendor or user of such voting system may request, in writing, that the Board reconsider its decision to withdraw approval of the voting

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system. Upon receipt of such a request, the Board shall hold a public hearing for the purpose of reconsidering the decision to withdraw approval and any interested person shall be given an opportunity to make a presentation either in support of or in opposition to the Board's decision.

- c) The Board shall, on the basis of the record before it, either affirm or reverse its decision to withdraw approval. In the alternative, the Board may also order that the voting system be given further review by the Board's staff in accordance with this Part and also, if appropriate, order that the voting system be subject to interim approval as determined by the Board.
- d) Prior to April 1, 1999, vendors or users shall provide the Board with a certificate that each electronic voting system which it then supplies for use in Illinois meets the requirements of Section 204.40(a) of this Part. After April 1, 1999, the Board will send the notice specified by subsection (a) of this Section to vendors and users of all electronic voting systems for which such a certificate has not been received by April 1, 1999.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

1) Heading of Part: Established Political Party and Independent Candidate Nominating Petitions

2) Code Citation: 26 Ill. Adm. Code 201

3) Sections Numbers: 201.60
Proposed Action: New

4) Statutory Authority: Implements Articles 7, 8 and 10, and authorized by Sections 1A-8(9), 7-12.1, 8-9.1, and 10-8 of the Election Code [10 ILCS 5/Arts. 7, 8 and 10, 1A-8(9), 7-12.1, 8-9.1 and 10-8].

5) A Complete Description of the Subjects and Issues Involved: Allows the State Board of Elections to examine nominating petitions submitted by independent candidates and candidates of established political parties to determine if they are in apparent conformity with the requirements of the Election Code. Provides a definition of apparent conformity and establishes a hearing procedure for candidates who wish to contest the administrative decision that a nominating petition is not in apparent conformity with the requirement of the Election Code.

6) Will these amendments replace emergency rule currently in effect? No

7) Does the rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed rule provides a means for refusing to certify to the ballot names of candidates who nominating petitions are facially invalid, i.e., they lack an essential document or fail to present sufficient signatures, assuming all that are presented are valid. By this means the State Board of Elections intends to accomplish its statutory duty to certify only those names to the ballot of person who have submitted nominating petitions that conform to the requirements of the Election Code.

Any possible mandate imposed by this rulemaking is nevertheless not reimbursable under Sections 3(c) and 6(c) of the State Mandates Act [30 ILCS 805/3(c) and 6(c)].

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to the:

State Board of Elections

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

A. L. Zimmer, General Counsel
James R. Thompson Center
100 West Randolph Street
Suite 14-100
Chicago IL 60601
312/814-6477

or at a Public Hearing to be held on May 18, 1998 at the James R. Thompson Center, 100 W. Randolph Street, Chicago, Illinois and on May 26, 1998 at the State Board of Elections principal office located at 1020 Spring Street, Springfield, Illinois. Please contact the Board's offices for verification of hearing time, room and date.

12) Initial Regulatory Flexibility Analysis:

A) Types of Small businesses affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule-making was submitted: This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: authority of the State Board of Elections to take such administrative action as the rule contemplates was not, in the opinion of the State Board of Elections, confirmed until the decision by the Appellate Court for the 2nd District in *North, et al. v. Hinkle*, No. 2-97-0225, issued in March 1998.

The full text of the Proposed Amendments begins on the next page:

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 201

ESTABLISHED POLITICAL PARTY AND INDEPENDENT CANDIDATE

NOMINATING PETITIONS

Section

- 201.10 Filing Times at the Office of the State Board of Elections
- 201.20 Determination of Nominating Petition's Official Time of Filing
- 201.30 Filing Times for Objections and Withdrawals
- 201.40 Simultaneous Filings for the Same Office - Lottery
- 201.50 Determination of Number of Primary Electors in Computing Signature Requirements (Emergency Expired)
- 201.60 Examination of Petitions for Apparent Conformity

AUTHORITY: Implementing Articles 7, 8 and 10 of the Election Code [10 ILCS 5/Arts. 7, 8 and 10] and authorized by Section 1A-8(9) of the Election Code [10 ILCS 5/1A-8(9)].

SOURCE: Adopted at 2 Ill. Reg. 25, p. 70, effective July 3, 1978; amended at 5 Ill. Reg. 14140, effective December 4, 1981; codified at 6 Ill. Reg. 7213; emergency amendment at 8 Ill. Reg. 24311, effective November 29, 1984, for a maximum of 150 days; amended at 22 Ill. Reg. _____, effective _____.

Section 201.60 Examination of Petitions for Apparent Conformity

- a) All nominating petitions and petitions for referenda filed with the State Board of Elections (Board) shall be examined to determine if they are in apparent conformity with the Sections of the Election Code which authorize them to be filed.
- b) A petition is in apparent conformity if it:
 - 1) Includes all papers and forms which are required by the Article of the Election Code relating to the office for which the candidate is seeking nomination or election;
 - 2) Appears to contain all of the information and statements, sworn and attested to where necessary, as required by the Article and other statutes under which an office is sought;
 - 3) Appears to contain, where required by an Article of the Election Code or any other statute, the requisite number of presumptively valid signatures; and
 - 4) Appears to contain original petition sheets which are not photocopies or duplicates of any other petition sheets.
- c) Within 5 business days after a petition is filed, the Board or its staff shall examine the petition for apparent conformity. If the petition is determined not to be in apparent conformity, it shall be stamped with the words "challenged, not in apparent conformity" and

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

the candidate or candidates will be sent, within 24 hours after the declaration of want of apparent conformity, by certified mail, return receipt requested, notice of the rejection of petition for want of apparent conformity.

- d) The notice shall inform the recipient that the petition will not be accepted and the candidates or proposition not certified to the ballot unless the administrative decision is reversed after a hearing to be held to review the administrative decision that the petition lacks apparent conformity.
- e) If the candidate or certifying elector who has submitted a petition not in apparent conformity, having first been notified of such want of apparent conformity, fails to request a hearing before the close of the pertinent objection period, the administrative decision shall stand. If a hearing is requested in apt time, it shall proceed according to the statute and rules governing objections to petitions, except that:
 - 1) the complaint shall be filed by the Board or a Board staff member, who need not be a registered voter of the district with respect to which the petition has been filed; and
 - 2) the notification provisions of Section 10-10 of the Election Code [10 ILCS 5/10-10] shall be superseded by the notices provided under this Section.
- f) If an objector's petition is filed by an elector against a petition which is not in apparent conformity, the Board may consolidate its complaint with the objection, or may stay or withdraw its staff complaint as circumstances may direct.

(Source: Added at 22 Ill. Reg. _____, effective _____.)

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: New Political Party Nominating Petitions

2) Code Citation: 26 Ill. Adm. Code 202

3) Sections Numbers: Proposed Action:
202.60 New

4) Statutory Authority: Implements Article 10, and authorized by Sections 1A-8(9) and 10-8 of the Election Code [10 ILCS 5/Art. 10 and 1A-8(9) and 10-8].

5) A Complete Description of the Subjects and Issues Involved: Allows the State Board of Elections to examine nominating petitions submitted by candidates of new political parties to determine if they are in apparent conformity with the requirements of the Election Code. Provides a definition of apparent conformity and establishes a hearing procedure for candidates who wish to contest the administrative decision that a nominating petition is not in apparent conformity with the requirement of the Election Code.

6) Will these proposed amendments replace emergency rule currently in effect?
No

7) Does the rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The proposed rule provides a means for refusing to certify to the ballot names of candidates whose nominating petitions are facially invalid, i.e., they lack an essential document or fail to present sufficient signatures, assuming all that are presented are valid. By this means the State Board of Elections intends to accomplish its statutory duty to certify only those names to the ballot of person who have submitted nominating petitions that conform to the requirements of the Election Code.

Any possible mandate imposed by this rulemaking is nevertheless not reimbursable under Sections 3(c) and 6(c) of the State Mandates Act [30 ILCS 805/3(c) and 6(c)].

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to:

State Board of Elections

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

A. L. Zimmer, General Counsel
James R. Thompson Center
100 West Randolph Street
Suite 14-100
Chicago IL 60601
(312) 814-6477

Comments may also be made at a Public Hearing to be held on May 18, 1998 at the James R. Thompson Center, 100 W. Randolph Street, Chicago, Illinois and on May 26, 1998 at the State Board of Elections principal office located at 1020 Spring Street, Springfield, Illinois. Please contact the Board's offices for verification of hearing time, room and date.

12) Initial Regulatory Flexibility Analysis:

- A) Types of Small businesses affected: None
B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because: The authority of the State Board of Elections to take such administrative action as the rule contemplates was not, in the opinion of the State Board of Elections, confirmed until the decision by the Appellate Court for the 2nd District in *Worth, et al. v. Hinkie*, No. 2-97-0225, issued in March 1998.

The full text of the Proposed Amendments begins on the next page:

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 202

NEW POLITICAL PARTY NOMINATING PETITIONS

Section

- 202.10 Filing Times at the Office of the State Board of Elections
 202.20 Determination of Nominating Petition's Official Time of Filing
 202.30 Filing Times for Objections and Withdrawals
 202.40 Simultaneous Filings for the Same Office - Lottery
 202.50 Nominating Petitions Filed with County Clerks
 202.60 Examination of Petitions for Apparent Conformity

AUTHORITY: Implementing Article 10 of the Election Code [10 ILCS 5/Art. 10] and authorized by Section 1A-8(9) of the Election Code [10 ILCS 5/1A-8(9)].

SOURCE: Adopted at 2 Ill. Reg. 25, p. 70, effective July 3, 1978; amended at 5 Ill. Reg. 14144, effective December 4, 1981; codified at 6 Ill. Reg. 7214; amended at 22 Ill. Reg. _____, effective _____.

Section 202.60 Examination of Petitions for Apparent Conformity

- a) All nominating petitions and petitions for referenda filed with the State Board of Elections (Board), shall be examined to determine if they are in apparent conformity with the Sections of the Election Code which authorize them to be filed.
- b) A petition is in apparent conformity if it:
- 1) Includes all papers and forms which are required by the Article of the Election Code relating to the office for which the candidate is seeking election;
 - 2) Appears to contain all of the information and statements, sworn and attested to where necessary, as required by the Article and other statutes under which an office is sought;
 - 3) Appears to contain, where required by an Article of the Election Code or any other statute, the requisite number of presumptively valid signatures; and
 - 4) Appears to contain original petition sheets which are not photocopies or duplicates of any other petition sheets.
- c) Within 5 business days after a petition is filed, the Board or its staff shall examine the petition for apparent conformity. If the petition is determined not to be in apparent conformity, it shall be stamped with the words "Challenged, not in apparent conformity" and the candidate or candidates will be sent, within 24 hours after the declaration of want of apparent conformity, by certified mail, return receipt requested, notice of the rejection of petition for want of apparent conformity.
- d) The notice shall inform the recipient that the petition will not be

STATE BOARD OF ELECTIONS

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accepted and the candidates or proposition not certified to the ballot unless the administrative decision is reversed after a hearing to be held to review the administrative decision that the petition lacks apparent conformity.

- e) If the candidate or certifying elector who has submitted a petition not in apparent conformity, having first been notified of such want of apparent conformity, fails to request a hearing before the close of the pertinent objection period, the administrative decision shall stand. If a hearing is requested in apt time, it shall proceed according to the statute and rules governing objections to petitions, except that:

- 1) the complaint shall be filed by the Board or a Board staff member, who need not be a registered voter of the district with respect to which the petition has been filed; and
- 2) the notification provisions of Section 10-10 of the Election Code [10 ILCS 5/10-10] shall be superseded by the notices provided under this Section.

- f) If an objector's petition is filed by an elector against a petition which is not in apparent conformity, the Board may consolidate its complaint with the objection, or may stay or withdraw its staff complaint as circumstances may direct.

(Source: Added at 22 Ill. Reg. _____, effective _____.)

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Registration of Voters

2) Code Citation: 26 Ill. Adm. Code 216

3) Sections Numbers: 216.40
Proposed Action:
Amended

4) Statutory Authority: Implements the National Voter Registration Act of 1993 (42 U.S.C. Sections 1973gg, et seq.) made applicable to all elections in Illinois by order of the Circuit Court of Cook County in *Orr, et al. v. Edgar, et al.*, Nos. 95-CO-246 and 95-CO-248 (Consolidated) and authorized by Article 1, Section 4 of the United States Constitution and by Sections 1A-8(4), (9) and (12) of the Illinois Election Code (10 ILCS 5/1A-8(4), (9) and (12)).

5) A Complete Description of the Subjects and Issues Involved: Requires that all computer systems used to store voter registration records be able to operate and operate correctly after January 1, 1999.

6) Will this rulemaking replace emergency rule currently in effect? No

7) Does the rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers Proposed Action Illinois Register Citation

Section 216.90 Amendment 21 Ill. Reg. 13697, 10/17/97

10) Statement of Statewide Policy Objectives: The proposed amendment ensures that all computer systems used to store voter registration records in Illinois will not be affected by the so-called "Year 2000 Bug," the operating system problem anticipated at the new millennium for computer systems unprepared to calculate dates using a four digit year format rather than a two digit format.

Any possible mandate imposed by this rulemaking is nevertheless not reimbursable under Sections 3(c) and 6(c) of the State Mandates Act [30 ILCS 805/3(c) and 6(c)].

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to the:

State Board of Elections

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

A. L. Zimmer, General Counsel
James R. Thompson Center
100 West Randolph Street
Suite 14-100
Chicago IL 60601
312/814-6477

or at a Public Hearing to be held on May 18, 1998 at the James R. Thompson Center, 100 W. Randolph Street, Chicago, Illinois and on May 26, 1998 at the State Board of Elections principal office located at 1020 Spring Street, Springfield, Illinois. please contact the Board's offices for verification of hearing time, room and date.

12) Initial Regulatory Flexibility Analysis:

A) Types of Small businesses affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was submitted: This amendment was not included on either of the 2 most recent Regulatory Agendas because: the problem which this amendment addresses was not brought to the attention of the State Board of Elections until March 1998, when it was raised in a need study written by the Board's consultants reporting on alternative options for a statewide voter registration database.

The full text of the Proposed Amendments begins on the next page:

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

d) At each election it conducts, each election authority shall send to each precinct polling place in its jurisdiction the precinct binder for that precinct or such list of eligible voters prepared by a signature digitization system as may be allowed by statute and rule of the State Board of Elections.

e) Beginning January 1, 1998, each election authority shall, at each election it conducts, prepare for each precinct polling place in its jurisdiction, a list or file of all Voter Registration Applications and Voter Registration Cards that have been transferred to inactive status in that precinct. Such list shall either, in the discretion of the election authority, include or be entirely composed of a computer-generated list of the electronically stored Voter Registration Applications and Voter Registration Cards of that precinct. The information to be included in the computer stored data shall be the name, address, date of birth, last four digits of the social security number and a computer-generated duplicate of the signature of the applicant. Such list, to the extent that it is not composed of a list generated from electronically stored data, shall consist of copies of Voter Registration Applications and duplicate Voter Registration Cards.

f) Each election authority shall keep all records concerning the implementation of programs and activities conducted to maintain the accuracy and currency of voter registration files for at least two years. Such records shall be made available to the public for inspection and where facilities permit, copies shall be provided at reasonable cost. However, nothing in this Section or any other to the contrary withstanding, information that relates to a voter's declination to register or identifies the agency through which a voter registered shall remain confidential.

g) Election authorities shall maintain a list of all voters to whom a forwardable confirmation of address notice has been sent. Such list shall note whether the voter has responded to the notice. The list shall be made available to the public and be current as of the date the request for public inspection is made.

h) Not earlier than February 1 and not later than March 1 of each odd-numbered year, each election authority shall report to the State Board of Elections the number of forwardable confirmation of address notices mailed and the number of responses received between the two previous federal elections.

i) After April 1, 1999 no election authority shall employ any electronic data storage or processing system for registration records which will not operate correctly after January 1, 2000.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

STATE BOARD OF ELECTIONS

NOTICE OF PROPOSED AMENDMENTS

TITLE 26: ELECTIONS
CHAPTER I: STATE BOARD OF ELECTIONS

PART 216
REGISTRATION OF VOTERS

Section

- 216.10 Applicability
- 216.20 Definitions
- 216.30 Receipt of Voter Registration Applications
- 216.40 Maintaining Voter Records
- 216.50 Canceling Voter Registrations
- 216.60 Forms
- 216.70 Processing Voter Registration Applications
- 216.80 Documenting Transactions
- 216.90 Voting
- 216.100 Designation of Chief State Election Official
- Exhibit A Voter Registration Application - Illinois
- Exhibit B Voter Registration Information
- Exhibit C Voter Registration Application Transmittal
- Exhibit D Disposition of Registration
- Exhibit E Voter Identification Card
- Exhibit F Confirmation of Address
- Exhibit G Registration Deadline Notice
- Exhibit H Address Correction for Mail Safe Voter

AUTHORITY: Implementing the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.) and authorized by Sections 1A-8(4), (9) and (12) of the Election Code [10 ILCS 5/1A-8(4), (9) and (12)].

SOURCE: Adopted by emergency rule at 21 Ill. Reg. 14247, effective October 22, 1996, for a maximum of 150 days; emergency expired March 21, 1997; adopted at 21 Ill. Reg. 4610, effective March 31, 1997; amended at 22 Ill. Reg. _____, effective _____.

Section 216.40 Maintaining Voter Records

- a) This Section implements Section 8 of the National Voter Registration Act of 1993 (42 U.S.C. Sections 1973gg-5 and gg-6) and the order of the Circuit Court of Cook County entered May 1, 1996 in Orr 08, et al. v. Edgar, et al. 95-CO-246 and 95-CO-248 (Consolidated).
- b) Each election authority shall enter any Voter Registration Application it acknowledges into its master file of registered voters.
- c) Each election authority shall make a copy of each Voter Registration Application it acknowledges and place such copy in the precinct binder of the precinct in which the applicant resides, or, where voter registration data is kept by signature digitization systems, enter such data into the signature digitization system.

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

1) Heading of the Part: Pharmacy Practice Act of 19872) Code Citation: 68 Ill. Adm. Code 13303) Section Numbers:

Proposed Action:
 1330.05 Amendment
 1330.10 Amendment
 1330.20 Amendment
 1330.30 Amendment
 1330.60 Amendment
 1330.80 Amendment
 1330.98 New Section

4) Statutory Authority: Implementing Section 22a of the Pharmacy Practice Act of 1987 [225 ILCS 85/22a].

5) A Complete Description of the Subjects and Issues Involved: Section 22a of the Pharmacy Practice Act of 1987 provides for the Department to establish rules governing the use of automated dispensing and storage systems. Section 1330.98 establishes those rules, setting standards for documentation and recordkeeping for Division I, II, III and V pharmacies that utilize such systems.

This proposed rulemaking also modifies the definitions of "on file" and "dispense", and requires graduates of non-approved programs to pass the Test of Spoken English (TSE). Other technical changes are also made.

6) Will these proposed amendments replace an emergency rule currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Do these proposed amendments contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no effect on local governments.11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may submit written comments to:

Jean A. Courtney
 Department of Professional Regulation
 320 West Washington, 3rd Floor
 Springfield IL 62786

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

217/785-0813

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Pharmacies

B) Reporting, bookkeeping or other procedures required for compliance: Pharmacies wishing to utilize automated storage and dispensing systems will be required to maintain records in accordance with Section 1330.98.

C) Types of professional skills necessary for compliance: Pharmacy skills are necessary for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: January 1998

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1330

PHARMACY PRACTICE ACT OF 1987

Section

- 1330.05 Definitions
- 1330.10 Application for Certificate of Registration as a Pharmacy Technician
- 1330.20 Approval of Pharmacy Programs
- 1330.30 Graduates of Programs Not Approved Pursuant to the Provisions of Section 1330.20
- 1330.40 Application for Examination
- 1330.50 Examination for Licensure
- 1330.55 Application for Licensure on the Basis of Examination
- 1330.60 Endorsement ~~Reciprocity~~
- 1330.65 Patient Counseling
- 1330.70 Definitions (Renumbered)
- 1330.75 Security Requirements
- 1330.80 Violations
- 1330.90 Divisions of Pharmacy Licenses
- 1330.91 Division I Pharmacies
- 1330.92 Division II Pharmacies
- 1330.93 Division III Pharmacies
- 1330.94 Division IV Pharmacies
- 1330.95 Division V Pharmacies
- 1330.96 Nonresident Pharmacies
- 1330.98 Automated Dispensing and Storage Systems
- 1330.99 Parenteral Product Standards
- 1330.100 Application for a Pharmacy License
- 1330.110 Granting Variances
- 1330.120 Renewals
- 1330.130 Restoration
- 1330.140 Continuing Education

AUTHORITY: Implementing the Pharmacy Practice Act of 1987 [225 ILCS 85] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Pharmacy Practice Act, effective August 20, 1975; amended March 8, 1977; amended at 4 Ill. Reg. 1234, effective July 11, 1980; amended at 5 Ill. Reg. 2997, effective March 11, 1981; codified at 5 Ill. Reg. 11049; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 7 Ill. Reg. 6496, effective June 30, 1983; amended at 9 Ill. Reg. 16918, effective October 23, 1985; amended at 10 Ill. Reg. 21913, effective December 17, 1986;

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

transferred from Chapter I, 68 Ill. Adm. Code 330 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1330 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2957; amended at 12 Ill. Reg. 17394, effective October 14, 1988; amended at 16 Ill. Reg. 19811, effective December 7, 1992; amended at 21 Ill. Reg. 12600, effective August 29, 1997; amended at 22 Ill. Reg. _____, effective _____.

Section 1330.05 Definitions

"Act" of 1987 means the Pharmacy Practice Act [225 ILCS 85].

"Authentication of Product History" means, but is not limited to, identifying the purchasing source, the ultimate disposition and any intermediate handling of any component of a radiopharmaceutical, diagnostic agent or device.

"Deliver" means the actual, constructive or attempted transfer of possession of a prescription medication.

"Dispense" means to interpret, select the prescribed product, prepare and/or deliver a prescription medication to an ultimate consumer or to a person authorized to receive the prescription medication by or pursuant to the lawful order of a practitioner, including the compounding, packaging, computer-entry and/or labeling necessary for delivery and any recommending, advising and counseling concerning the contents, therapeutic values, uses and any precautions, warnings and/or advice concerning consumption. Dispense does not mean the physical deliver to a patient or a patient's representative in a home or institution by a designee of a pharmacist or by common carrier or the physical delivery of a drug or medical device to a patient or patient's representative by a pharmacist's designee within a pharmacy or drugstore while the pharmacist is on duty and the pharmacy is open.

"Distribute" means to deliver, other than by dispensing, a prescription medication.

"Division I pharmacy" is any pharmacy that engages in general community pharmacy practice and that is open to, or offers pharmacy service to, the general public.

"Division II pharmacy" is any pharmacy whose primary pharmacy service is provided to patients or residents of facilities licensed under the Nursing Home Care Act [210 ILCS 45] or the Hospital Licensing Act [210 ILCS 85], or the University of Illinois Hospital Act [110 ILCS 330] and that is not located in the facility it serves.

"Division III pharmacy" is any pharmacy that is located in a facility

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

licensed under the Nursing Home Care Act or the Hospital Licensing Act, or the University of Illinois Hospital Act or a facility that is operated by the Department of Human Services ~~Mental-Health--and Developmental--Disabilities~~ or the Department of Corrections, and that provides pharmacy services to residents or patients of the facility, as well as employees, prescribers and students of the facility.

"Division IV pharmacy" is any pharmacy that provides and/or offers for sale radiopharmaceuticals.

"Division V pharmacy" is any pharmacy that holds a license in Division II or Division III that also provides pharmacy services to the general public, or is any pharmacy that is located in or whose primary pharmacy service is to ambulatory care facilities or schools of veterinary medicine or other such institution or facility (e.g., a university infirmary).

"Medication Order" means an order that is issued by a physician for a resident or patient of a facility licensed under the Nursing Home Care Act or the Hospital Licensing Act.

"Nonresident Pharmacy" means a pharmacy that is located outside this State that ships, delivers, dispenses or distributes into Illinois by any means any drugs, medicines, pharmaceutical services or devices requiring a prescription.

"Nuclear Pharmacist" means a pharmacist who provides radiopharmaceutical services and has satisfied the requirements of Section 1330.94(i).

"On File" as used in Section 19 of the Act and this Part means the maintenance at the transferor pharmacy of the transferred prescription, whether previously filled or unfilled. For previously filled prescriptions at a transferor pharmacy located in Illinois, the prescriptions shall be maintained pursuant to the recordkeeping requirements of Section 18 of the Act. For previously unfilled prescriptions at a transferor pharmacy located in Illinois, the prescriptions shall be maintained in a readily retrievable format in a suitable book, file or recordkeeping system for a period of not less than 5 years. For previously filled and unfilled prescriptions at a transferor pharmacy located in a state other than Illinois, the prescriptions shall be maintained pursuant to the recordkeeping requirements of the state.

"Patient counseling" means the communication between a pharmacist or a student pharmacist under the direct supervision of a pharmacist and a patient or the patient's representative about the patient's medication or device for the purpose of optimizing proper use of

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

prescription medications or devices. The ~~an~~ offer to counsel shall be made by the pharmacist or the pharmacist's designee, and subsequent patient counseling by the pharmacist or the student pharmacist shall be made in a face-to-face communication with the patient or the patient's representative, unless, in the professional judgment of the pharmacist, a face-to-face communication it is deemed inappropriate or unnecessary. In ~~such~~ that instance, ~~it would be permissible for the~~ offer to counsel or patient counseling may be made in a written communication, by telephone or in a manner determined by the pharmacist to be appropriate.

"Patient profiles" or "patient drug therapy record" means the obtaining, recording and maintenance of patient prescription and personal information.

"Pharmacist" means a currently licensed registered pharmacist or registered assistant pharmacist.

"Prospective drug review" or "drug utilization evaluation" means a review of the screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), drug-food interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions and clinical abuse or misuse.

"Radiopharmaceutical" means any substance defined as a drug in Section 3(b) of the Pharmacy Practice Act that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such substance but does not include drugs such as carbon-containing compounds of potassium-containing salts that contain trace quantities of naturally occurring radionuclides. Radio-pharmaceuticals include radioactive biological products as defined in the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq. (1988)) and regulations promulgated thereunder.

"Radiopharmaceutical Quality Assurance" means, but is not limited to, the performance of appropriate chemical, biological, and physical tests on potential radiopharmaceuticals, and the interpretation of the resulting data to determine their suitability for use in humans and animals, including internal test assessment, authentication of product history and the keeping of proper records in these regards.

"Radiopharmaceutical Service" means the compounding, dispensing, labeling and delivery of radiopharmaceuticals; the participation in radiopharmaceutical selection and radiopharmaceutical utilization

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT(S)

reviews; the proper and safe storage and distribution of radiopharmaceuticals as determined by the Illinois Department of Nuclear Safety; the maintenance of radiopharmaceutical quality assurance; the responsibility for advising, where necessary or required, of diagnostic and therapeutic values, hazards and use of radioactive pharmaceuticals; and the offering or performance of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a Division IV Pharmacy.

"Registrant" means a licensed registered pharmacist, registered assistant pharmacist, or a registered pharmacy technician.

"Student Pharmacist" is a person registered as a pharmacy technician who is enrolled in a pharmacy program and is designated as a "student pharmacist" pursuant to Section 9 of the Act.

"Ultimate consumer" means the person for whom a drug is intended.

"Unprofessional conduct" under Section 30 of the Act shall include, but not be limited to, any act or practice related to the practice of pharmacy that is wilful, wanton, repeated, or flagrant and likely to result in harm to an individual. In determining what constitutes unprofessional conduct, the Board shall consider, but shall not be limited to, the following standards as they relate to the person who is the subject of the proposed disciplinary action:

Violations set forth in Section 30(a) of the Act;

Repeated commission of an act or acts that are of a flagrant and obvious nature so as to constitute conduct of such a distasteful nature that accepted codes of behavior or codes of ethics are breached;

Repeated commission of an act or acts in a relationship with a patient so as to violate common standards of decency or propriety;

Wilful violation or knowing assistance in the violation of any law relating to the use of habit-forming drugs;

Wilful preparation or signing false statements in order to induce payment for pharmacy services by the Department of Public Aid, or any other local, state or federal department, agency or governmental body, or any private insurance program; and

Violating practice Standards of the American Pharmaceutical Association/American Association of Colleges of Pharmacy Standards of Practice for the Profession of Pharmacy, published

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March 1979, which include no later editions or amendments, and which are herein incorporated by reference, in determining what is unprofessional conduct; however, non-compliance with these professional standards shall not alone be considered an act of unprofessional conduct unless these acts are of a flagrant, glaringly obvious nature constituting a substantial departure from these professional standards.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1330.10 Application for Certificate of Registration as a Pharmacy Technician

a) An applicant for a certificate of registration as a pharmacy technician shall file an application on forms supplied by the Department of Professional Regulation (Department) together with:

- 1) A copy of high school diploma or its equivalent, or proof of current enrollment in a high school program; and
- 2) The fee required by the Pharmacy Practice Act of 1987 (the Act) [255 ILCS 85] (Ill.-Rev.-Stat-1991-ch-117-par-421-et-seq-) pursuant to Section 27(A)(1).

b) Pursuant to Section 9 of the Act, an applicant may assist a registered pharmacist for 60 days upon submission of an application to the Department in accordance with subsection (a) above.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1330.20 Approval of Pharmacy Programs

a) The Department shall, upon the recommendation of the State Board of Pharmacy (the Board), approve a pharmacy program in a school or college or department of pharmacy of a university or other institution as reputable and in good standing if it meets the following minimum criteria:

- 1) Is legally recognized and authorized, through appropriate agencies such as a ministry of education or higher education governing board, by the jurisdiction in which it is located to confer a first professional degree in pharmacy;
- 2) Has a faculty which comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. Their faculty must have demonstrated competence in their area of teaching as evidenced by appropriate degrees from professional colleges or institutions in disciplines reflective of the curricular requirements. (All of the pharmacist members of the clinical faculty and a majority of the faculty in the pharmaceutical sciences should be licensed

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pharmacists in that jurisdiction. The clinical faculty should be active practitioners.);

- 3) Has a curricular offering of post-secondary instruction totalling at least five-4 5) academic years including any preprofessional education requirements, and requiring a minimum of the following subject areas:

- A) General Education (a minimum of 30 semester hours or its equivalent in courses in the humanities and behavioral and social sciences);
- B) Preclinical Sciences (courses in the physical and biological sciences and mathematics which are prerequisites to professional studies and training. Course work should include general chemistry, organic chemistry, general biology, microbiology and mathematics);
- C) Professional Studies and Training (in the following areas):
 - i) Biomedical sciences which include anatomy, physiology, immunology, biological chemistry, pathology and biostatistics;
 - ii) Pharmaceutical sciences, which include pharmaceutical or medicinal chemistry, pharmaceuticals or dosage form design and evaluation, pharmacokinetics, synthetic and natural drug product chemistry, pharmacology, pharmaceutical administration and the social and behavioral sciences in pharmacy;
 - iii) Clinical sciences and practice, which include clinically applied courses based on the biomedical and pharmaceutical sciences such as didactic courses in clinical foundations, disease processes and diagnoses, clinical pharmacology and therapeutics and drug information research and literature retrieval; and
 - iv) Externship and clerkship: a minimum of 400 direct contact hours in clerkship and externship experience. These experiences should minimally include supervised training in inpatient environments providing for interdisciplinary experiences with other health professionals and including distributive aspects of pharmacy practice;
- 4) Has essential facilities including, but not limited to, administrative and faculty offices, teaching and research laboratories, lecture rooms, conference rooms, student activities areas and service and other programmatic support areas;
- 5) Has a comprehensive library which contains a contemporary collection of periodicals, texts and reference books relevant to the biomedical, pharmaceutical and clinical aspects of health care and its systems of delivery;
- 6) Has clinical facilities adequate in number and quality and with appropriate supervision to deliver the clinical clerkships and externships of the curriculum. Such facilities shall be

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available in inpatient and outpatient environments, including patient care areas of health care institutions, hospital pharmacies community pharmacies; and

- 7) Maintains permanent retrievable and auditable student records that summarize the credentials for admission, attendance, grades and other records of performance for each student enrolled in the program.
- b) In determining whether a school or college should be approved, the Department shall take into consideration, but not be bound by, accreditation standards established by the American Council on Pharmaceutical Education.
- c) An applicant from a pharmacy program that has not been evaluated shall cause to be forwarded to the Department documentation concerning the criteria in this Section. If the documentation is insufficient to evaluate the program, the applicant will be required to provide such additional information as necessary. Once the Department has received the documentation or after 6 months have elapsed from the date of application, whichever is first, the Board will evaluate the program based on all documentation received from the school and any additional information the Department has received which will enable the Board to evaluate the program based on the criteria specified in this Section. In the event the program is not approved as reputable and in good standing by the Department, applicants from the program must successfully complete the preliminary diagnostic examination and all such other requirements as set forth in the Act and this Part.
- d) The Director shall, upon written recommendation submitted by the Board, withdraw, suspend or place on probation the approval of a pharmacy program when the Director determines, based upon the report of the Board, the quality of the program has been materially affected. In determining the existence of a material effect, the Board and the Director shall consider the existence of any of the following causes:
 - 1) Gross or repeated violations of any provision of the Act;
 - 2) Gross or repeated violations of any provision of this Part;
 - 3) Fraud or dishonesty in furnishing documentation for evaluation of the pharmacy program; or
 - 4) Failure to continue to meet the established criteria for an approved pharmacy program as set out in this Section.
- e) When approval of a pharmacy program is being reconsidered by the Department, written notice shall be given at least 15 days prior to any recommendation by the Board, and the officials in charge may either submit written comments or request an interview before the Board.
- f) The Department, upon the recommendation of the Board, has determined that all pharmacy programs accredited by the American Council on Pharmaceutical Education as of July 1, 1998 1992, meet the minimum criteria set forth in subsection paragraph (a) above and are, therefore, approved. The Board shall review the list of accredited programs published each year on July 1 by the American Council on

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Pharmaceutical Education in order to determine whether the programs continue to meet the minimum criteria.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1330.30 Graduates of Programs Not Approved Pursuant to the Provisions of Section 1330.20

a) Applicants who are graduates of a first professional degree program in pharmacy of at least 5 academic years that is not approved pursuant to the provisions of Section 1330.20 shall submit proof of:

1) Passage of the preliminary diagnostic examination (Foreign Pharmacy Graduate Equivalency Exam (FPGEE)) designed to determine equivalence of education to programs approved pursuant to Section 1330.20;

2) Passage of the Test of English as a Foreign Language (TOEFL) examination with a score of at least 550; and

3) Passage of the Test of Spoken English (TSE) examination with a score of 50; and

4) Completion of a course of clinical instruction approved by the Board as required by Section 6 of the Act. The course of clinical instruction shall be conducted under the supervision of a pharmacist registered in the State of Illinois. The applicant shall obtain prior approval of the Board before enrolling in the course of clinical instruction. In approving a course of clinical instruction, the Board shall consider, but not be limited to, whether the course:

A) Enhances development of effective communication skills by enabling consultation between the applicant, the prescriber and the patient;

B) Promotes development of medical data retrieval skills through exposure to patient medical charts, patient medication profiles and other similar sources of patient information;

C) Promotes development of the applicant's ability to research and analyze drug information literature; and

D) Promotes development of the applicant's ability to interpret laboratory test and physical examination results.

b) Applicants who are graduates of a first professional degree program in pharmacy that is less than 5 academic years in length may contact an approved school of pharmacy and request that the curriculum be reviewed for qualifying credits. Any course deficiencies may be completed in an approved school of pharmacy in order to receive a first professional degree in pharmacy. Upon receipt of the first professional degree in pharmacy, an individual may apply to sit for the licensure examination.

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(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1330.60 Endorsement Reciprocity

a) An applicant who is currently licensed by examination under the laws of another U.S. jurisdiction or another country state shall file an application with the Department, together with:

1) A recent photograph not larger than 2-1/2-by-2-1/2-inches; 2) Certification of graduation from a/an-approved 5 year pharmacy program approved pursuant to Section 6 of the Act and Section 1330.20 of this Part;

2) For individuals licensed in another state prior to January 1, 1983, proof of having completed the hours of apprenticeship; or, if at least 1500 hours of apprenticeship were not required, an affidavit attesting to the period of the applicant's active experience as a pharmacist;

3) A certification by the state or territory of original licensure, stating:

A) The time during which the applicant was licensed in that state;

B) Whether the file on the applicant contains any record of any disciplinary actions taken or pending;

C) A brief description of the examination and the applicant's grades; and

D) A statement that such state grants similar reciprocity to pharmacists licensed in Illinois; and

4) The fee as required by Section 25 of the Act (Ill. Rev. Stat. 1987, ch. 117, par. 4052-1).

b) The Department and the Board shall examine each reciprocity application to determine whether the requirements at the time of licensure in the state where the applicant was licensed by examination, were substantially equivalent to the requirements then in force in this State.

c) If the requirements are found to be substantially equivalent and the applicant graduated from an approved college of pharmacy and meets all other requirements of Section 6-4 of the Act (Ill. Rev. Stat. 1987, ch. 117, par. 4011), the Department will notify the applicant of approval and/or denial and the reasons therefor within 30 days after receipt of the application and supporting documentation.

d) If an application is approved, the applicant will be scheduled for and shall be required to attend an orientation session given by the Board which shall cover areas of Illinois law and practice and the disciplinary procedures of the Department.

e) The Department shall, within 30 days after the completion of the orientation, issue a license by endorsement certificate of registration by reciprocity to the applicant.

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(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1330.80 Violations

- a) A registrant shall not:
- 1) permit the dispensing or distributing of a prescription medication to an ultimate consumer unless a registered pharmacist is physically present, on duty and available for consultation.
 - 2) Engage in a professional association, with any place defined as a drug store or pharmacy in the Act, wherein the practice of pharmacy is engaged in by any person who is not authorized to practice under the Act or that is not operated and conducted in compliance with the Act.
 - 3) Compound, sell or offer for sale, or cause to be compounded, sold or offered for sale, any drug, medicine, poison, chemical or pharmaceutical preparation, under or by a name recognized in the United States Pharmacopeia/National Formulary for internal or external use which differs from standard of strength, quality, purity, or bioavailability as determined by the tests specified in the United States Pharmacopeia/National Formulary which is official at the time of such compounding, sale or offering for sale.
 - 4) Compound, sell or offer for sale, or willfully cause to be compounded, sold or offered for sale, any drug, medicine, poison, chemical or pharmaceutical preparation, the strength or purity of which shall fall below the professed standard of strength or purity under which it is sold.
 - 5) Purchase prescription drugs from any source that fails to meet provisions of the Wholesale Drug Distribution Licensing Act [225 ILCS 120] ~~{1117-Rev-Stat--19917-chv--1117-pars--8301-1-et-seq-}~~.
- b) No registrant shall violate any of the following laws, or the rules or regulations promulgated pursuant thereto, which relate to the practice of pharmacy:
- 1) Illinois Food, Drug and Cosmetic Act [410 ILCS 620] ~~{1117-Rev-Stat--19917-chv--56-1/2-pars--501-et-seq-}~~.
 - 2) The Hypodermic Syringes and Needles Act [720 ILCS 635] ~~{1117-Rev-Stat--19917-chv--387-pars--22-50-et-seq-}~~.
 - 3) Federal Food, Drug and Cosmetic Act [21 U.S.C. 301 et seq. (1976)].
 - 4) Federal Controlled Substances Act [(21 U.S.C. 801 et seq. (1976))].
 - 5) The Illinois Controlled Substances Act [720 ILCS 570] ~~{1117-Rev-Stat--19917-chv--56-1/2-pars--1101-et-seq-}~~.
 - 6) Cannabis Control Act [720 ILCS 550] ~~{1117-Rev-Stat--19917-chv--56-1/2-pars--701-et-seq-}~~.
 - 7) Illinois Poison Prevention Packaging Act [430 ILCS 40] ~~{1117-Rev-Stat--19917-chv--111-1/2-pars--291-et-seq-}~~.

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- 8) Poison Prevention Packaging Act of 1970 [15 U.S.C. 1471, et seq. (1976)]~~7~~.
- 9) Wholesale Drug Distribution Licensing Act [225 ILCS 120] ~~{1117-Rev-Stat--19917-chv--1117-pars--8301-1-et-seq-}~~.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

Section 1330.98 Automated Dispensing and Storage Systems

- a) This Section sets forth standards for Divisions I, II, III and V pharmacies whose practice includes the use of automated dispensing and storage systems. Automated dispensing and storage systems shall not be used in Division IV pharmacies.
- b) Definitions
- "Automated Dispensing and Storage Systems" include, but are not limited to, mechanical systems that perform operations or activities, other than counting, compounding, or administration, relative to the storage, packaging or dispensing of medications, and that collect, control, and maintain all transaction information.
- c) Automated Dispensing and Storage Systems
- 1) Automated dispensing and storage systems may be utilized in Division I, Division II, Division III and Division V licensed pharmacies.
 - 2) Only persons licensed under federal or State laws who have authority to administer medications shall have access for removal of prescription medications for patient use. Automated dispensing and storage systems shall not be used for direct patient access to prescription medications.
 - 3) Documentation as to type of equipment, serial numbers, content, policies and procedures, and location(s) shall be maintained on-site in the pharmacy for review by the Department. Such documentation shall include, but not be limited to:
 - A) Name and address of the pharmacy or facility where the automated dispensing and storage system is operational;
 - B) Manufacturer's name and model;
 - C) Quality assurance policy and procedures to determine continued appropriate use and performance of the automated device; and
 - D) Policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access, controlled substances, data retention or archival, definitions, downtime procedures, emergency or first dose procedures, inspection, installation requirements, maintenance, medication security, quality assurance, medication inventory, staff education and training, system set-up and malfunction.
 - 4) Automated dispensing and storage systems shall be used only in

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settings that ensure medication orders are reviewed by a pharmacist in accordance with established policies and procedures and good pharmacy practice.

- 5) Automated dispensing and storage systems shall have adequate security systems and procedures, evidenced by written pharmacy policies and procedures, to:

- A) Prevent unauthorized access or use;
- B) Comply with any applicable federal and State regulations; and

- C) Maintain patient confidentiality.

- 6) Records and/or electronic data kept by automated dispensing and storage systems shall meet the following requirements:

- A) All events involving access to the contents of the automated dispensing and storage systems must be recorded electronically;

- B) Records must be maintained by the pharmacy and must be readily available to the Department. Such records shall include:

- i) Identity of system accessed;
- ii) Identification of the individual accessing the system;
- iii) Type of transaction;
- iv) Name, strength, dosage form and quantity of the drug accessed;

- v) Name of the patient for whom the drug was ordered;
- vi) Identification of the registrant(s) stocking or restocking and the pharmacist checking for the accuracy of the medications to be stocked or restocked in the automated dispensing and storage system; and
- vii) Such additional information as the pharmacist-in-charge may deem necessary.

- 7) The stocking or restocking of all medications in the automated dispensing and storage systems shall be accomplished by licensees/registrants under the Act.

- 8) All containers of medications stored in the automated dispensing and storage systems shall be packaged as a unit of use for single patient use (e.g., unit dose tab/cap, tube of ointment, inhaler, etc.) and labeled as specified below:

- A) Parenteral solutions to which a drug(s) or diluent has been added, or which are not in their original manufacturer's packaging, shall contain the following information on the outer label:

- i) Name, concentration and volume of the base parenteral solution;
- ii) Name and strength of drug(s) or diluent added;
- iii) Date and expiration date of the admixture. The expiration date, unless otherwise specified in the individual compendia monograph, or beyond use date, shall be no later than the expiration date on the

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manufacturer's container, one year from the date the drug is repackaged, or current federal (e.g., the Federal Drug Administration Act) or U.S.P. requirements, whichever is earlier; and

- iv) Reference code to identify source and lot number of drug(s) or diluent added.

- B) Non-parenterals repackaged for future use shall be identified with the following information:

- i) Trade and/or generic name;
- ii) Strength (if applicable);
- iii) Expiration date. Unless otherwise specified in the individual monograph, the expiration date or beyond use date shall be no later than the expiration date on the manufacturer's container, one year from the date the drug is repackaged, or current federal or U.S.P. requirements, whichever is earlier; and
- iv) Reference code to identify source and lot number.

- 9) For medication removed from the system for on-site patient administration, the system must document the following information:

- A) Name of the patient or resident;
- B) Patient's or resident's room and bed number;
- C) Date and time medication removed from the system;
- D) Name, initials, or other unique identifier of the person removing the drug; and
- E) Name, strength and dosage form of the drug or description of the medical device removed. The documentation may be on paper, via electronic media or via any other media or mechanisms as set forth by the Act or this Part or as approved by the Department.

- 10) The automated dispensing and storage systems shall provide a mechanism for securing and accounting for medications once removed from and subsequently returned to the automated dispensing and storage systems (e.g., return bin). No medication or device shall be returned directly to the system for immediate reissue or reuse by a non-registrant under the Act. Medication or devices once removed shall not be reused or reissued except for:

- A) Medical devices which can be properly sanitized prior to reuse or reissue; and

- B) Medication that is dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current U.S.P./National Formulary, or by the U.S.P. Conventions, Inc.

- 11) The automated dispensing and storage systems shall provide a mechanism for securing and accounting for wasted medications or

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- discarded medications.
- 12) The quality assurance documentation for the use and performance of the automated dispensing and storage systems shall include at least the following:
- Safety monitors (e.g., wrong medications removed and administered to patient);
 - Accuracy monitors (e.g., filling errors, wrong medications removed); and
 - Security monitors (e.g., unauthorized access, system security breaches, controlled substance audits).
- 13) Errors in the use or performance of the automated dispensing and storage systems resulting in patient or resident death shall be reported to the Department by the pharmacist-in-charge within 10 days after acquiring knowledge of the incident.
- 14) Policy and procedures for the use of the automated dispensing and storage systems shall include a requirement for pharmacist review of the prescription or medication order prior to the system profiling and/or removal of any medication from the system for immediate patient administration. This does not apply to the following situations:
- The system is being used as an after hours cabinet for medication dispensing in the absence of a pharmacist as defined in Section 1330.90(e)(1);
 - The system is being used in place of an emergency kit as defined in Section 1330.93(e)(2);
 - The system is being used to provide access to medication required to treat the immediate needs of a patient as defined in Section 1330.93(e)(3). A sufficient quantity to meet the immediate needs of the patient may be removed until a pharmacist is on duty and available to review the prescription or medication order. A pharmacist shall check such orders promptly once on duty (e.g., floor stock system, emergency department, surgery, ambulatory care or same day surgery, observation unit, etc.).
- 15) Policies and procedures for the use of the automated dispensing and storage systems shall include the following:
- List of medications to be stored in each system;
 - List of medications qualifying for emergency or first dose removal without pharmacist prior review of the prescription or medication order; and
 - List of medications qualifying for control purposes.
- 16) The pharmacist-in-charge shall maintain or have access to all records or documentation specified in this Section for 5 years or as otherwise required by law.
- 17) A copy of all pharmacy policies and procedures related to the use of an automated dispensing and storage system shall be maintained at all locations where the system is being used.
- d) Duties and Responsibilities of the Pharmacist-in-Charge

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- 1) The pharmacist-in-charge shall be responsible for:
- Assuring that the automated dispensing and storage system is in good working order and accurately provides the correct strength, dosage form and quantity of the drug prescribed while maintaining appropriate recordkeeping and security safeguards;
 - Establishment of a quality assurance program prior to implementation of an automated dispensing and storage system and the supervision of an ongoing quality assurance program that monitors appropriate use and performance of the automated dispensing and storage system, which is evidenced by written policies and procedures developed by the pharmacy;
 - Providing the Department with written notice 30 days prior to the installation of or at the time of removal of an automated storage and dispensing system. Such notice must include, but is not limited to:
 - the name and address of the pharmacy;
 - the address of the location of the automated dispensing and storage system, if different from the address of the pharmacy;
 - the automated dispensing and storage system's manufacturer and model; and
 - the pharmacist-in-charge.
 - Determining and monitoring access to and the limits on access (e.g., security levels) to the automated storage and dispensing system. Such access shall be defined by policies and procedures of the pharmacy and shall comply with State and federal regulations.
 - Additional responsibilities of the pharmacist-in-charge or designee shall include:
 - Assigning, discontinuing or changing access to the system;
 - Ensuring that access to the medications complies with State and federal regulations as applicable; and
 - Ensuring that the automated dispensing and storage system is stocked/restocked accurately and in accordance with established, written pharmacy policies and procedures.

(Source: Added at 22 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Long Term Care Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 153
- 3) Section Numbers: Proposed Action:
153.100 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's rate maintenance provisions for long term care facilities allow an exception concerning real estate taxes for new facilities. Such facilities are assigned rates that are consistent with the medians for the geographical areas in which they are located until initial cost reports have been filed with the Department and initial inspection of Care (IOC) surveys have been completed. Rates for new facilities can then be recalculated as allowed by Section 153.100(e). However, a new facility is usually unable to report real estate taxes on the initial cost report because full tax reports are generally unavailable until the facility has been in operation for several years. Because of this, the real estate tax allowance in the facility's rate remains fixed at the geographic median. A rate maintenance exception is being proposed since new facilities are assigned real estate tax allowances that are not based upon facility-specific information.

Rate maintenance exceptions are allowed under Section 153.100 for facilities that have never had a rate based upon actual facility-specific costs and levels of care. The proposed addition of an exception regarding real estate taxes is therefore consistent with the general rate setting practices for new long term care facilities. According to the proposed amendments, it will be the responsibility of the facility to request the exception. The facility will be eligible for a one-time rate increase when the real estate tax rate has been set at the median level, but the actual taxes are greater than the median.

For nursing facilities, the approximate average rate under these proposed amendments is expected to be \$77.67 and the annual budgetary effect is expected to be \$500,000. The annual impact on the Department of Human Services, which bears responsibility for intermediate care facilities for persons with developmental disabilities (ICF/MR), is expected to be approximately \$100,000 with an average rate of \$103.50.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No

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- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones, Bureau of Rules and Regulations
Illinois Department of Public Aid
201 South Grand Ave. E., 3rd Floor
Springfield, Illinois 62763
217/524-3215

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these amendments at the Illinois Department of Human Services' local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 310 South Michigan Avenue, Suite 1700, Chicago, Illinois, and the Office of the Secretary, Illinois Department of Human Services, 401 South Clinton, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 A.M. until 5:00 P.M. These copies of the amendments are being made available for review in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

- 12) Initial Regulatory Flexibility Analysis:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES
PART 153
LONG TERM CARE REIMBURSEMENT CHANGES

Section
153.100
153.125
153.150

Reimbursement for Long Term Care Services
Long Term Care Facility Rate Adjustment
Quality Assurance Review (Repealed)

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13] and implementing Article III of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. III].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for a maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; amended at 22 Ill. Reg. _____, effective _____.

Section 153.100 Reimbursement for Long Term Care Services

- a) Notwithstanding the provisions set forth in 89 Ill. Adm. Code 140, 144 and 147 for reimbursement of long term care services, effective January 18, 1994, reimbursement rates for long term care facilities (SNF/ICF and ICF/MR) and day training providers will remain at the levels in effect on January 18, 1994, except as otherwise provided in this Section.
- b) The results of Inspection of Care (IOC) surveys for which the exit conference is completed prior to January 18, 1994, will be processed and reflected in facility rates effective with the annual nursing rate adjustment date. The reconsideration process which is provided for in 89 Ill. Adm. Code 147.100 remains in effect for these surveys and other surveys set forth in this Section.
- c) Capital and support rates in effect on January 18, 1994, will be adjusted based on final audits of cost report data in accordance with 89 Ill. Adm. Code 140.582(b) and 140.590.
- d) Capital rates will be increased for major capital improvements in accordance with 89 Ill. Adm. Code 140.560(c) and (e).

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- A) Types of small businesses, small municipalities and not for profit corporations affected: Long term care facilities
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: This rulemaking was not anticipated by the Department when the two most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

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- e) New facilities which are assigned median rates in accordance with 89 Ill. Adm. Code 140.560(b) will have rates recalculated based upon receipt of their first cost report and first IOC survey.
- f) Rates may change based upon an interim IOC conducted at the facility's written request for any facility which changed ownership no earlier than 90 days prior to and not later than January 18, 1994. The interim IOC request must include justification and documentation which supports one of the criteria set forth in 89 Ill. Adm. Code 147.150(d).
- g) Requests for interim IOCs received through January 18, 1994, will be processed in accordance with 89 Ill. Adm. Code 147.150(d).
- h) Interim IOCs may be conducted, at the facility's written request, if there has been a change in the Medicaid census since the last IOC survey in accordance with 89 Ill. Adm. Code 147.150(d), except that the requirement that the request must be made within 180 days after the last IOC, need not be met. The written request must contain documentation supporting the change in Medicaid census.
- i) The Department reserves the right to initiate interim IOC surveys, if necessary, based upon a significant reduction in the level of resident care or for the health and safety concerns of residents.
- j) Any rate adjustments that result from an interim IOC conducted under this Section will have an effective date of the first day of the month following the exit date of the interim IOC.
- k) Requests for IOCs upon which rate determinations are based upon a Medicaid resident being transferred from a State operated developmentally disabled facility to a community setting will be considered on a case-by-case basis.
- l) Fiscal year 1996 support rates may change based on the first cost report filed by new ownership reflecting six months or more of the new ownership's operation for any facility which changed ownership between July 1, 1992, and January 18, 1994. Only changes in ownership in arms-length transactions between unrelated parties will be recognized for this rate change. The new support rate for those facilities will be calculated in accordance with 89 Ill. Adm. Code 140.560 and 140.561. Support rates for facilities which qualify under this exception will not be decreased by the provisions in this Section. The capital rates of facilities which changed ownership between July 1, 1992, and January 18, 1994, will not be subject to changes in the capital rate based on the provisions of 89 Ill. Adm. Code 140.571(b)(4), but can still be affected by the provisions of subsection (d) of this Section.
- m) For those for-profit facilities whose fiscal year 1994 capital rate does not include a real estate tax component because it is based upon a non-profit facility's cost report, effective July 1, 1995, the real estate tax component will be added to the capital rate based upon the fiscal year 1994 median real estate tax rate for the geographic area HSA in which the home is located.
- n) If a non-profit facility changes ownership on or after July 1, 1995,

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- and the new owner is a for-profit facility, the real estate tax component will be added to the capital rate effective with the change of ownership as recognized by the Illinois Department of Public Health. The real estate tax component will be added at the geographic area HSA median tax rate in effect for the month in which the real estate tax becomes effective.
- o) For those non-profit facilities whose fiscal year 1994 capital rate includes a real estate tax component based upon a for-profit facility's cost report, effective July 1, 1995, the real estate tax component of the capital rate will be removed (unless the non-profit facility rents the home from an unrelated for-profit entity).
- p) If a for-profit facility changes ownership on or after July 1, 1995, and the new owner is a non-profit facility, the real estate tax component will be removed from the capital rate effective with the date of change in ownership as recognized by the Illinois Department of Public Health. The real estate tax component will not be removed for a non-profit facility that rents the facility from an unrelated for-profit entity.
- q) Rates may change based upon verification of the delivery or non-delivery of psychiatric rehabilitation services to individuals with mental illness residing in nursing facilities. Psychiatric rehabilitation services program reimbursement will be dependent upon the facility meeting all criteria specified in 89 Ill. Adm. Code 147.300 through 147.345.
- r) The flat per diem paid to ICFs/MR to cover the cost of non-emergency dental services pursuant to 89 Ill. Adm. Code 144.275 and 144.300 will be increased from \$.30 to \$.40.
- s) Day training provider rates shall be increased by three percent for services provided on or after July 1, 1996.
- t) Effective for services provided on or after July 1, 1996, facilities which are located in an area which has changed geographic designation due to unique labor force factors shall have rates recalculated based upon the ceilings and norms of the newly designated geographic area.
- u) The add-on to the final nursing rate for care planning identified in 89 Ill. Adm. Code 147.205 will be increased from \$.35 to \$.45.
- v) Long term care facilities that have been assigned a median tax rate on the basis of geographic area in accordance with 89 Ill. Adm. Code 140.560(b) and subsections (m) and (n) of this Section shall subsequently have those rates recalculated based upon the first full tax bill received by that facility. The revised rate will be the greater of the recalculated rate or the rate in effect from the aforementioned Section and subsections. Rates revised in accordance with this subsection shall result in payments retroactive to July 1, 1997, for those facilities whose first full tax bill is received by the Department no later than June 30, 1998. Rates for facilities whose first full tax bill is received after June 30, 1998, will be effective on the date the Department receives the first full tax bill. In order to calculate the potential tax rate, the real estate tax from

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the first full tax bill for the long term care property will be divided by the greater of the annualized capital days (see 89 Ill. Adm. Code 140.570(b)(3)) from the cost report used to calculate the remainder of the capital rate in accordance with 89 Ill. Adm. Code 140.570 through 140.574, or 93 percent of annualized bed days based upon the number of licensed beds available at the end of the period covered by the tax bill. No inflation factor will be used for this calculation.

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Motor Fuel Tax
- 2) Code Citation: 86 Ill. Adm. Code 500
- 3) Section Numbers: Proposed Action:
500.235 Amendment
- 4) Statutory Authority: 35 ILCS 505
- 5) A Complete Description of the Subjects and Issues Involved: Amends the Motor Fuel Tax regulations by providing that claimants may be required to file purchase documentation in conjunction with claims based upon motor fuel used for a nontaxable purpose.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6996

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Persons, other than distributors or suppliers, filing claims under the Motor Fuel Tax Law.
- B) Reporting, bookkeeping or other procedures required for compliance: Maintaining supporting documentation such as invoices, sales slips, statements of account, or monthly statements.

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- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 1998
- The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE
PART 500
MOTOR FUEL TAX

SUBPART A: DEFINITIONS

Section	
500.100	Definitions
500.101	Definition of Receiver (Repealed)
500.102	Definition of Loss (Repealed)

SUBPART B: MOTOR FUEL TAX

Section	
500.200	Basis and Rate of the Motor Fuel Tax
500.201	Licensure
500.202	Basis and Rate of Tax Payable by Receivers
500.203	Monthly Returns
500.204	Report of Loss of Motor Fuel
500.205	Daily Gallonage Record
500.210	Documentation of Tax-free Sales of Motor Fuel Made by Licensed Distributors and Suppliers
500.215	Documentation of Tax-free Sales of Fuel Made by Licensed Receivers
500.220	Vehicles of Distributors Transporting Petroleum Products (Repealed)
500.225	Other Vehicles (Repealed)
500.230	Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers
500.235	Claims for Refund - Invoices
500.240	Sales of Special Fuel - Variation in Usage
500.245	Estimated Claims Not Acceptable
500.250	Claimants Owning Motor Vehicles (Repealed)
500.255	Detailed Answers
500.260	Revocation of License, Etc. - Notice - Hearing
500.265	Distributors' and Suppliers' Claims for Credit or Refund
500.270	Receivers' Claims for Credit
500.275	Procedure When Tax-Paid Motor Fuel is Returned to Licensee for Credit
500.280	Sales of Motor Fuel to Municipal Corporations Owning and Operating Local Transportation Systems
500.285	Sales of Motor Fuel to Certain Privately-Owned Public Utilities
500.290	Owning and Operating Transportation Systems in Metropolitan Areas
	When Purchaser's License Number with Department on Invoices Covering Sales of Special Fuel is Required (Repealed)
500.295	Cost of Collection - Determination (Repealed)

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SUBPART C: MOTOR FUEL USE TAX

- Section
- 500.300
- Licensure
- 500.301
- Special Motor Fuel Permits and Decals (Repealed)
- 500.302
- Motor Carrier's Quarterly Report (Repealed)
- 500.305
- Licenses and Decals
- 500.310
- Display of License and Decals
- 500.315
- Renewal of Decals and Licenses
- 500.320
- Single Trip Permits
- 500.325
- Licensure of Lessors and Lessees
- 500.330
- Cancellation of License
- 500.335
- Quarterly Payment and Reporting
- 500.340
- Credits and Refunds
- 500.345
- Records Requirements
- 500.350
- Revocation
- 500.355
- Protest Procedures
- 500.360
- Audits

SUBPART D: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

- Section
- 500.400
- General Information
- 500.405
- Due Date That Falls on Saturday, Sunday or a Holiday

SUBPART E: GENERAL REQUIREMENTS APPLICABLE TO ALL LICENSES AND PERMITS ISSUED UNDER THE MOTOR FUEL TAX LAW

- Section
- 500.500
- Licenses and Permits Are Not Transferable
- 500.501
- Blenders' Permits Are Not Transferable (Repealed)
- 500.505
- Changes of Corporate Officers

SUBPART F: INCORPORATION BY REFERENCE OF RETAILERS' OCCUPATION TAX

- Section
- 500.600
- Incorporation of the Retailers' Occupation Tax Regulations by Reference

AUTHORITY: Implementing the Motor Fuel Tax Law [35 ILCS 505] and authorized by Section 39b2 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b2].

SOURCE: Adopted July 3, 1931; amended at 2 Ill. Reg. 1, p. 97, effective December 31, 1978; amended at 3 Ill. Reg. 13, p. 98, effective March 25, 1979; amended at 4 Ill. Reg. 28, p. 568, effective June 1, 1980; codified at 8 Ill.

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Reg. 8612; amended at 10 Ill. Reg. 4540, effective February 28, 1986; amended at 11 Ill. Reg. 10295, effective May 18, 1987; emergency amendment at 13 Ill. Reg. 13271, effective August 7, 1989, for a maximum of 150 days; emergency expired January 4, 1990; amended at 14 Ill. Reg. 6826, effective April 19, 1990; amended at 15 Ill. Reg. 6305, effective April 16, 1991; amended at 15 Ill. Reg. 13538, effective August 30, 1991; recodified at 18 Ill. Reg. 4451; amended at 19 Ill. Reg. 3008, effective February 28, 1995; amended at 19 Ill. Reg. 17195, effective December 18, 1995; amended at 20 Ill. Reg. 10168, effective July 16, 1996; amended at 22 Ill. Reg. 2253, effective January 9, 1998; amended at 22 Ill. Reg. _____, effective _____.

SUBPART B: MOTOR FUEL TAX

Section 500.235 Claims for Refund - Invoices

- a)
- Claims for the refund of Motor Fuel Tax imposed by Section 2 of the Law, by persons other than a distributor or supplier, shall be made to the Department of Revenue, duly verified by the claimant, upon forms prescribed by the Department. The except-as-provided-in-subsection (e)-of-this-Section, the Department of Revenue will not approve claims for refund of Motor Fuel Tax unless such claims can be directly are supported by invoices, sales slips, statements of account, or monthly statements (herein referred to as "purchase documentation"). -or-sales slips-(commonly-referred-to-as-the-top-copy)- Reproductions may be submitted in lieu of originals, provided they are legible. However, the Department may require original purchase documentation invoices to verify purchases. Purchase documentation may be electronically generated by the claimant's fuel supplier. Electronically generated purchase documentation shall meet all applicable electronic storage requirements of Sections 130.805 and 130.825 of the Retailers' Occupation Tax regulations (86 Ill. Adm. Code 130). Manifests or monthly-statements will not be treated as purchase documentation invoices.
- b)
- All purchase documentation sales-slips-or-invoices must contain the following information:

1) Date of delivery;

2) name and address of purchaser (which must be the name of the claimant);

3) name and address of seller;

4) number of gallons purchased and price per gallon;

5) Illinois Motor Fuel Tax as separate item if the purchase documentation is from other than a retail outlet; and

6) receipt of payment. (Only paid purchase documentation is invoices-are acceptable in connection with claims for refund.) Refunds will only be issued when payment of tax is exactly correlated to the purchase documentation invoice for which the claim is being filed.

c)

Claimants must retain purchase documentation file-invoices-or-sales

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slips in conjunction with claims based upon motor fuel used for a nontaxable purpose. In making a claim, claimants must show total purchases, deducting the gallonage used upon public highways or waters, the difference being the net amount upon which the claim is based. ~~Only invoices--directly--supporting--the--nontaxable--use--are required--to--be--submitted--~~ However, ~~claimants~~ Claimants must retain among their books and records documentation of all purchases, payments, bulk storage withdrawals and proof of usage for a period equivalent to that during which an assessment can be issued under the Law, from the date of issuance of the claim or refund. This information must be made available to Department employees upon request. Failure to keep or provide such records will may result in denial of claims and recovery of any claims paid. In addition, the Department may recover any claims erroneously paid.

d) Where the claimant has lost purchase documentation ~~invoices~~ through inadvertence or an act of God, the Department will permit the claimant to submit ~~an~~ his affidavit in lieu of such purchase documentation ~~invoice~~ in support of the claim, if the affidavit contains the same information which the purchase documentation ~~invoice~~ was required to contain, plus a statement of facts explaining the loss of the purchase documentation ~~invoice~~ and justifying the substitution of an affidavit for the purchase documentation ~~invoice~~.

e) Claims for full reimbursement of tax paid on motor fuel must be filed not later than one year after the date on which the tax was paid by the claimant. If, however, a claim for such reimbursement otherwise meeting the requirements of the Act is filed more than one year but less than 2 years after that date, the claimant shall be reimbursed at the rate of 80% of the amount to which he would have been entitled if his claim had been timely filed.

f) Claims accompanied by purchase documentation ~~sales--slips--or--invoices~~ upon the face of which demonstrates ~~there-is~~ evidence of change of name, date or gallonage or other evidence of fraud, or which is are illegible, will be disallowed in their entirety.

g) Any person who purchases motor fuel in Illinois and uses that motor fuel in another state and that other state imposes a tax on the use of such motor fuel shall be reimbursed and repaid the amount of Illinois tax paid on the motor fuel used in such other state. Reimbursement and repayment shall be made by the Department upon receipt of adequate proof of taxes paid to another state and the amount of motor fuel used in that state. Evidence supporting the claim must include both a copy of the tax return filed with such other state and a copy of the cancelled check or a receipt acknowledging payment of the tax due on said tax return.

h) *Claims for refunds for the motor fuel tax imposed by Section 2 of the Law approved by the Department shall be paid within 90 days after receipt of a complete and correct application for such a refund. If refunds are paid after the expiration of the 90 day period, the Department shall also pay from the Motor Fuel Tax Fund to the taxpayer*

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interest at the rate and in the manner set by the Uniform Penalty and Interest Act [35 ILCS 505/15.1].

(Source: Amended at 22 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Procurement
- 2) Code Citation: 44 Ill. Adm. Code 1400
- 3) Section Numbers:
1400.505 New
1400.510 New
1400.515 New
1400.520 New
1400.525 New
1400.530 New
1400.1005 New
1400.1010 New
1400.1015 New
1400.1505 New
1400.1510 New
1400.1515 New
1400.2005 New
1400.2010 New
1400.2015 New
1400.2020 New
1400.2025 New
1400.2030 New
1400.2035 New
1400.2040 New
1400.2045 New
1400.2505 New
1400.2510 New
1400.2515 New
1400.2520 New
1400.3005 New
1400.3010 New
1400.3505 New
1400.3510 New
1400.3515 New
1400.3520 New
1400.3525 New
1400.4005 New
1400.4010 New
1400.4015 New
1400.4020 New
1400.4505 New
1400.4510 New
1400.4515 New
1400.4520 New
1400.4525 New
1400.4530 New
1400.4535 New

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- 1400.4540 New
1400.4545 New
1400.4550 New
1400.4555 New
1400.4560 New
1400.4565 New
1400.5005 New
1400.5010 New
1400.5015 New
1400.5020 New
1400.5025 New
1400.5030 New
1400.5035 New
1400.5040 New
1400.5045 New
1400.5050 New
1400.5055 New
1400.5060 New
1400.5065 New
1400.5505 New
1400.6005 New
1400.6010 New
1400.6015 New
1400.6020 New
1400.6025 New
1400.6030 New
1400.6035 New

- 4) Statutory Authority: Section 1-30 of the Illinois Procurement Code [30 ILCS 525/1-30]
- 5) A Complete Description of the Subjects and Issues Involved: Section 1-30 of the Illinois Procurement Code requires that constitutional officers procure their needs in a manner substantially in accordance with the requirements of the Code and promulgate rules that are no less restrictive than the requirements of the Code.
- 6) Will this rule replace an emergency rule currently in effect? No; however, the Treasurer's office anticipates promulgating an emergency rule to cover the period of time from July 1, 1998 until these procurement rules are adopted.
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed rule contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No

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- 10) Statement of Statewide Policy Objectives: These rules do not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act (30 ILCS 805/3(b)).

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following the publication of this notice. The Treasurer's office will consider fully all written comments on this proposed rulemaking that are submitted during the 45-day period. Comments should be submitted to:

Martin O. Noven
Legal Counsel
Office of the Illinois State Treasurer
Law Division
160 North LaSalle Street, Suite S-905
Chicago IL 60601
(312) 814-8950

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses and not for profit corporations that seek to provide goods or services to the Treasurer's office may be affected by this Part.

B) Reporting, bookkeeping or other procedures required for compliance: Every contractor and subcontractor is required to maintain books and records relating to the performance of the contract or subcontract and necessary to support amounts charged to the State under the contract or subcontract for a period of 3 years from the later of the date of final payment under the contract or subcontract or completion of the contract or subcontract. The 3-year period must be extended for the duration of any audit in progress at the time of that period's expiration.

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: Public Act 90-572, which authorizes and requires the rulemaking, was signed into law on February 6, 1998, after the regulatory agendas were published.

The full text of the proposed rule begins on the next page:

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENTS, AND PROPERTY
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER 21: TREASURER

PART 1400
PROCUREMENT

SUBPART A: GENERAL

Section	Title
1400.505	Policy
1400.510	Applicability
1400.515	Definition of Terms
1400.520	Property Rights
1400.525	Department of Central Management Services
1400.530	

SUBPART B: PROCUREMENT AUTHORITY

Section	
1400.1005	Chief Procurement Officer
1400.1010	Purchasing Officer
1400.1015	Small Business Specialist

SUBPART C: PUBLICATION, SOLICITATION AND DOCUMENTATION

Section	
1400.1505	Publication
1400.1510	Solicitation
1400.1515	Documentation

SUBPART D: PROCUREMENT METHODS

Section	
1400.2005	Competitive Sealed Bidding
1400.2010	Multi-Step Sealed Bidding
1400.2015	Competitive Sealed Proposals
1400.2020	Small Purchases
1400.2025	Sole Source Procurements
1400.2030	Emergency Procurements
1400.2035	Procurement of Professional and Artistic Services
1400.2040	Procurement of Real Property Leases
1400.2045	Other Methods of Source Selection

SUBPART E: GENERAL PROCUREMENT GUIDELINES

Section

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1400.2505 General Provisions
1400.2510 Tie Bids and Proposals
1400.2515 Correction or Withdrawal of Proposals
1400.2520 Cancellation of Solicitations and Rejection of Offers

SUBPART F: SPECIFICATIONS AND SECURITY REQUIREMENTS

Section
1400.3005 Specifications
1400.3010 Security Requirements

SUBPART G: CONTRACTS

Section
1400.3505 Types of Contracts
1400.3510 Duration of Contracts
1400.3515 Contract Pricing
1400.3520 Contract Provisions
1400.3525 Prevailing Wage Requirements

SUBPART H: DISPUTES, PROTESTS AND CONTROVERSIES

Section
1400.4005 Disputes and Protests Regarding Solicitations and Awards
1400.4010 Contract Controversies
1400.4015 Remedies
1400.4020 Suspension

SUBPART I: PREFERENCES

Section
1400.4505 Procurement Preferences
1400.4510 Resident Vendor Preference
1400.4515 Soybean Oil-based Ink
1400.4520 Recycled Materials
1400.4525 Recycled Paper
1400.4530 Correctional Industries
1400.4535 Sheltered Workshops for the Disabled
1400.4540 Gas Mileage
1400.4545 Illinois Agricultural Products
1400.4550 Corn-based Plastics
1400.4555 Vehicles Powered by Agricultural Commodity-based Fuel
1400.4560 Small Businesses
1400.4565 Preferences for Veterans, Minorities, Females, and Persons with Disabilities

SUBPART J: ETHICS

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Section
1400.5005 Purpose
1400.5010 Bribery
1400.5015 Relsons
1400.5020 Conflicts of Interest
1400.5025 Negotiations for Future Employment
1400.5030 Revolving Door
1400.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
1401.5040 Reporting Anticompetitive Practices
1400.5045 Confidentiality
1400.5050 Insider Information
1400.5055 Additional Provisions
1400.5060 Other Violations
1400.5065 Supply Inventory

SUBPART K: CONCESSIONS

Section
1400.5505 Concessions

SUBPART L: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section
1400.6005 Severability
1400.6010 Government Furnished Property
1400.6015 Inspections
1400.6020 No Waiver of Sovereign Immunity
1400.6025 Postage Stamps
1400.6030 Printing
1400.6035 Annual Reports

AUTHORITY: Implementing and authorized by Section 1-30 of the Illinois Procurement Code [30 ILCS 525/1-30].

SOURCE: Adopted at 22 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 1400.505 Title

This Part may be cited as the Office of the Treasurer Procurement Rules.

Section 1400.510 Policy

All procurements by the Treasurer's office will be accomplished in the most competitive, expeditious, economical and commercially reasonable manner that is

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in accordance with law, this Part and other applicable rules.

Section 1400.515 Applicability

- a) This Part applies to all procurements by the Treasurer's office with a Solicitation Date of July 1, 1998 or later with the exception of the following:
- 1) contracts between the Treasurer's office and any federal, State, or local governmental body;
 - 2) agreements for the deposit of State moneys in interest bearing accounts or the investment of State moneys under the Deposit of State Moneys Act [15 ILCS 520] or the Public Funds Investment Act [30 ILCS 235];
 - 3) hiring employees, including contractual employees but not independent contractors, of the Treasurer's office;
 - 4) collective bargaining agreements;
 - 5) contracts approved by the Chief Legal Counsel as necessary to prepare for anticipated litigation, enforcement actions, or investigations.
- b) The terms and conditions and the rights and obligations under contracts resulting from procurements with a Solicitation Date that is earlier than the effective date of this Part will not be impaired.

Section 1400.520 Definition of Terms

Each term listed in this Section has the meaning below unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in those Sections.

"Bid" - A response to an Invitation for Bids.

"Bidder" - The person or entity submitting a bid.

"Brand Name or Equal Specification" - A specification that uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet Treasurer's office requirements, and that allows the submission of equivalent products.

"Brand Name Specification" - A specification limited to one or more items by manufacturer's names or catalogue numbers.

"Chief Legal Counsel" - An attorney for the Treasurer's office who reports directly to the Chief of Staff and is primarily responsible for the legal functioning of the Treasurer's office.

"Chief of Staff" - The Chief of Staff for the Treasurer's office.

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"Chief Procurement Officer" - The employee of the Treasurer's office who is appointed by the Treasurer to be primarily responsible for the procurement of all goods and services by the Treasurer's office.

"Contract" - Any agreement or lease that requires the payment of State funds by the Treasurer's office in exchange for goods or services.

"Day" - Calendar day as opposed to business day. In computing any period of time, the day of the event from which the designated period of time begins to run is not included, but the last day of the period is included unless it is a Saturday, Sunday, or a State holiday, in which event the period runs to the end of the next business day.

"Invitation for Bids" - A document prepared and distributed by the Treasurer's office soliciting bids for the provision of goods or services to the Treasurer's office.

"Offer" - A bid, proposal, or response solicited by the Treasurer's office.

"Offeror" - The person or entity submitting a bid, proposal or response solicited by the Treasurer's office.

"Procurement Review Board" - A board composed of the Chief of Staff, the Chief Legal Counsel, and the Inspector General for the Treasurer's office.

"Professional and Artistic Services" - Those services provided under contract to the Treasurer's office by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability.

"Proposal" - A response to a Request for Proposals.

"Proposer" - The person or entity submitting a proposal.

"Purchasing Officer" - One or more employees of the Treasurer's office that serve at the direction of the Chief Procurement Officer and are responsible for coordinating the procurement activity of the Treasurer's office.

"Request for Information" - A document prepared and distributed by the Treasurer's office soliciting lease information for real property.

"Request for Proposals" - A document prepared and distributed by the Treasurer's office soliciting proposals for the provision of goods or services to the Treasurer's office.

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"Respondent" - The person or entity submitting a response to a Request for Information from the Treasurer's office.

"Response" - A response to a Request for Information.

"Responsible Bidder, Proposer or Respondent" - A person or entity that is capable in all respects of performing fully the contract requirements and has the integrity and reliability that will assure good faith performance.

"Responsive Bidder" - A person or entity that has submitted a bid conforming in all material respects to an Invitation for Bids or Request for Proposal.

"Small Business Specialist" - An employee of the Treasurer's office who is responsible for assisting small businesses in submitting offers to the Treasurer's office for the provision of goods and services.

"Solicitation" - An Invitation for Bids, Request for Proposals or Request for Information.

"Solicitation Date" - The date that bids or proposals are solicited for the provision of goods or services to the Treasurer's office by communicating the solicitation orally, depositing the solicitation in the U.S. Mail or posting the solicitation electronically, whichever occurs first.

"Specification" - Any description of the physical, functional or performance characteristics or of the nature of a supply, a service, or construction items. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, a service, or construction item for delivery.

"Treasurer's Web Site" - The World Wide Web site of the Office of the Illinois State Treasurer at www.state.il.us/treas.

Section 1400.525 Property Rights

Receipt of a solicitation or submission of any bid, proposal or response to a solicitation confers no right to receive an award or contract, nor does it obligate the State in any manner.

Section 1400.530 Department of Central Management Services

The Treasurer's office may, without soliciting independent bids, proposals, or responses, procure goods and services from vendors selected by the Department of Central Management Services (CMS) in accordance with a competitive selection process established by CMS under the Illinois Procurement Code [30 ILCS 525].

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SUBPART B: PROCUREMENT AUTHORITY

Section 1400.1005 Chief Procurement Officer

The Chief Procurement Officer shall insure that all procurements of the Treasurer's office are in accordance with this Part and in the best interest of the State. The Chief Procurement Officer is responsible for the activities of the Purchasing Officers and the Small Business Specialist who serve under his or her direction and supervision.

Section 1400.1010 Purchasing Officer

- a) The Chief Procurement Officer, subject to the approval of the Treasurer, may appoint one or more employees under his or her direction and supervision to serve as Purchasing Officers.
- b) Before making an appointment, the Chief Procurement Officer shall, among other factors, consider each individual's character and fitness and understanding of the procurement process.

Section 1400.1015 Small Business Specialist

- a) The Chief Procurement Officer, subject to the approval of the Treasurer, may designate an employee of the Treasurer's office with experience negotiating contracts to serve as the Small Business Specialist.
- b) Before making the designation, the Chief Procurement Officer shall, among other factors, consider the individual's demeanor, organizational skills, knowledge of the Treasurer's office, and awareness of the issues confronting small businesses.

SUBPART C: PUBLICATION, SOLICITATION AND DOCUMENTATION

Section 1400.1505 Publication

- a) Electronic Publication
Every solicitation for bids, proposals or responses required under this Part must be published on the Treasurer's Web Site at least 14 calendar days before the date set in the solicitation for the opening of the bids, proposals or responses. Every notice of intention to enter into a sole source contract must be published on the Treasurer's Web Site at least 14 calendar days before the award of the contract. Notices of the exercise of an option to renew a lease must be published on the Treasurer's Web Site at least 60 days prior to the exercise of the option. All other documents required to be published under this Part must be published on the Treasurer's Web Site as soon as practicable and no later than 30 days from the date on which the document was produced. There is no fee assessed for access to the page of the Treasurer's Web Site containing procurement information.

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b) Paper Publication

All documents published on the Treasurer's Web Site must be published in a paper format and made available upon request as of the date that it is published electronically. The Treasurer's office may charge a minimal fee that does not exceed the costs of postage and copying. The paper publication will be available for inspection free of charge at locations in Springfield and Chicago.

c) Content of Publications

1) Solicitations. Every solicitation must include the following:

- A) the date of the solicitation;
- B) the specifications;
- C) a procurement reference number if used;
- D) the date, time, and location of any bidders' conferences;
- E) the date, time, and location for making submissions;
- F) method of source selection;
- G) name of the Chief Procurement Officer and the Treasurer; and
- H) instructions on how to obtain additional information.

2) Notices of Contract Awarded. Every notice of contract awarded must contain the following information:

- A) the name of the vendor selected for the award;
- B) a brief description of what the vendor will do or provide;
- C) the contract price;
- D) the number of unsuccessful vendors;
- E) the date the solicitation was first published;
- F) the date, time and location for making submissions that led to the contract award;
- G) name of the Chief Procurement Officer and the Treasurer; and
- H) instructions on how to obtain additional information.

3) Notices of Cancellation or Rejection. The notices of cancellation of a solicitation or rejection of offers must:

- A) identify the solicitation;
- B) briefly explain the reason for the cancellation or rejection; and
- C) where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar goods or services.

4) Other Publications. All other publications required by this Part must contain any and all information that is required by this Part.

Section 1400.1510 Solicitation

In addition to publishing solicitation notices electronically and in a paper format, the Treasurer's office may directly contact prospective vendors. Direct solicitation may be oral or in writing, but care must be taken to ensure that all vendors receive the same information. At least three vendors should be contacted whenever possible.

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Section 1400.1515 Documentation

- a) Minutes

Minutes of all meetings of the Procurement Review Board and bidders' conferences will be created and made available for inspection and copying.
- b) Procurement File

All official procurement records, notices, contracts, written determinations, minutes, forms, and any other documents required under this Part must be made part of the procurement file maintained by the Chief Procurement Officer. The procurement file must be open to inspection and copying under conditions established by the Chief Procurement Officer.
- c) Contract Filing

Filing of contracts with the Office of the Comptroller must be done in accordance with the rules promulgated by the Comptroller's office.

SUBPART D: PROCUREMENT METHODS

Section 1400.2005 Competitive Sealed Bidding

- a) Application

Competitive sealed bidding is the required method of source selection except as allowed by this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.
- b) The Invitation for Bids
 - 1) Use. The Invitation for Bids is used to initiate a competitive sealed bid procurement.
 - 2) Content. The Invitation for Bids must include, at a minimum, the following:
 - A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the Treasurer's office, and any other special information;
 - B) the specification, evaluation factors, delivery or performance schedule, and any inspection and acceptance requirements as are not included in the specification; and
 - C) the contract terms and conditions, including warranty, collateralization, bonding or other security requirements, as applicable.
- 3) Incorporation by Reference. The Invitation for Bids may incorporate documents by reference if the Invitation for Bids specifies where the documents can be obtained.
- 4) Publication and Documentation of the Invitation for Bids. The Invitation for Bids must be published as provided in Section 1400.1505 and made a part of the procurement file.

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c) Optional Bid Requirements

1) Bid Form. The Invitation for Bids may provide a form which includes a space in which the bid price may be inserted and which the bidder must sign and submit along with all other necessary submissions.

2) Bid Samples and Descriptive Literature.

A) Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

B) Unsolicited bid samples or descriptive literature submitted at the bidder's risk may not be examined or tested, will not be deemed to vary any of the provisions of the Invitation for Bids, and may not be utilized by the vendor to contest a decision or understanding with the Treasurer's office.

d) Prequalification

1) The Chief Procurement Officer may require that vendors be prequalified as a condition of being placed on the bid list. Any bid lists developed will be updated by June 30 of each year. Vendors will be given an opportunity to prequalify prior to each update of the list. The opportunity to prequalify and whether prequalification will be a condition of being awarded a contract must be published as provided in Section 1400.1505.

2) The fact that a prospective vendor has been prequalified does not necessarily represent a finding of responsibility for a particular procurement.

3) Distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified.

e) Bidders' Conferences

Bidders' conferences may be conducted to enhance understanding of the procurement requirements. The conferences must be announced to all prospective bidders known to have received an Invitation for Bids. The conference may be designated as attendance mandatory or attendance optional. The conference must be held long enough after the Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Only the written minutes of the conference are binding. Nothing stated in the bidders' conference changes the Invitation for Bids unless a change is made by written amendment to the Invitation for Bids. Minutes of the conference will be supplied upon request.

f) Amendments to Invitations for Bids

1) Form. Amendments to Invitations for Bids must be identified and must require that the bidder acknowledge receipt of all amendments issued. The amendment must reference the portions of the Invitation for Bids it amends.

2) Distribution. Amendments must be sent to all prospective bidders known to have received an Invitation for Bids.

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3) Timeliness. Amendments must be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If necessary, the Chief Procurement Officer may extend the response time in writing, or by facsimile or telephone and confirmed in writing.

g) Pre-Opening, Modification or Withdrawal of Bids

1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the Invitation for Bids prior to the time and date set for bid opening. A facsimile modification or withdrawal, or withdrawal received by telephone prior to the time and date set for bid opening, will be effective if followed in writing.

2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, will be returned to the bidder.

3) Records. All documents relating to the modification or withdrawal of bids must be made a part of the procurement file. Receipt, Opening and Recording of Bids

h) Receipt. Upon its receipt, each bid and modification must be time-stamped but not opened and must be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file must so state.

2) Opening and Recording.

A) Bids and modifications must be opened publicly, in the presence of one or more witnesses, at the time, date, and place designated in the Invitation for Bids. The name of each bidder, the bid price, and any other information that the Chief Procurement Officer deems appropriate must be recorded.

B) The winning bid must be available for public inspection after award, along with the record of the other bids.

3) Confidential Data. The Chief Procurement Officer shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data or other information, the bid must be rejected as nonresponsive.

i) Bid Evaluation and Award

1) General. The contract is to be awarded to the lowest bid by a responsible and responsive bidder, unless otherwise permitted in this subsection (i). No bid may be evaluated for any requirements or criteria that are not disclosed in the Invitation for Bids.

2) Determination of Bidder as Responsible and Responsive. The Chief Procurement Officer or Purchasing Officer shall reach the determination of whether each bidder is responsible and responsive. The determination must be conducted to determine whether each bid is acceptable and appropriate for further

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evaluation and not for the purpose of determining whether one bidder's product or service capability is superior to another. The determination shall be in writing and made part of the procurement file.

- 3) Product Quality or Service Capability. The Chief Procurement Officer or Purchasing Officer shall also evaluate and make a notation of any differences in the product quality or service capability among the responsible and responsive bidders before reaching the determination of the lowest bidder.
- 4) Determination of Lowest Responsible and Responsive Bidder. Bids must be evaluated to determine which responsible and responsive bidder offers the lowest cost to the State in accordance with the evaluation criteria in the Invitation for Bids. Only objectively measurable criteria in the Invitation for Bids may be applied in determining the lowest bidder.
- 5) Award. The Chief Procurement Officer or Purchasing Officer shall award the contract to the lowest responsible and responsive bidder, unless the differences in product quality or service capability suggest that the selection of another bid is in the best interest of the State.
- 6) Price Negotiation. The Chief Procurement Officer or Purchasing Officer may negotiate with the low bidder to obtain a lower price for the item bid.

- j) Notification, Publication and Documentation of Award. Following the award, a notice of contract must be provided to the successful bidder, published as provided in Section 1400.1505, and made a part of the procurement file. The notice of contract awarded must indicate if a bidder other than the lowest responsible and responsive bidder was selected and the basis for the selection.

Section 1400.2010 Multi-Step Sealed Bidding

- a) Description. Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced offers to be evaluated by the Treasurer's office, and a second phase in which those bidders whose unpriced offers are determined to be acceptable during the first phase have their price bids considered.
- b) Applicability of Requirements. Except for the variations described in this Section, all the requirements for competitive sealed bidding in Section 1400.2005 apply to multi-step sealed bidding.
- c) Conditions for Use. The multi-step sealed bidding method may be used when it is considered impracticable by the Chief Procurement Officer or Purchasing Officer to initially prepare a specification to support an award based on price.

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- d) Procedure for Phase One of Multi-Step Sealed Bidding

- 1) Form. Multi-step sealed bidding must be initiated by the issuance of an Invitation for Bids in the form required for competitive sealed bidding by Section 1400.2005 with the addition of the following information:

- A) that unpriced offers are requested;
- B) whether priced bids are to be submitted at the same time as unpriced offers in a separate sealed envelope;
- C) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced offers are found acceptable in the first phase;
- D) the criterion to be used in the evaluation of the unpriced offers;
- E) that the Treasurer's office, to the extent the Chief Procurement Officer or Purchasing Officer finds necessary, may conduct oral or written discussions of the unpriced offers; and
- F) that the item being procured must be furnished generally in accordance with the bidder's unpriced offer as found to be finally acceptable and must meet the requirements of the Invitation for Bids.

- 2) Amendments to the Invitation for Bids. After receipt of unpriced offers, amendments to the Invitation for Bids will be distributed only to bidders who submitted unpriced offers, and they will be permitted to submit new unpriced offers or to amend those submitted. The Invitation for Bids may be cancelled in accordance with Section 1400.2520 and a new Invitation for Bids issued if, in the opinion of the Chief Procurement Officer, a contemplated amendment will significantly change the nature of the procurement.

- 3) Receipt and Handling of Unpriced Offers. Unpriced offers submitted by bidders must be opened in the presence of at least one witness. The offers must not be disclosed to unauthorized persons. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.

- 4) Evaluation of Unpriced Offers. The unpriced offers submitted by bidders must be evaluated solely in accordance with the criteria in the Invitation for Bids. The unpriced offers must be initially categorized as:
 - A) acceptable;
 - B) potentially acceptable; or
 - C) unacceptable, in which case the Chief Procurement Officer or Purchasing Officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

- 5) Discussion of Unpriced Offers. The Chief Procurement Officer must initiate discussion with the vendors of the unpriced offers

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unless, in the Chief Procurement Officer's opinion, there are sufficient acceptable unpriced offers to assure effective price competition in the second phase without discussions, in which case he or she may initiate phase two of the procedure. The Chief Procurement Officer, or his or her designee, may conduct discussions with any vendor who submits an unpriced offer that is initially categorized as acceptable or potentially acceptable. During the course of the discussions the Chief Procurement Officer, or his or her designee, must not disclose any information derived from an unpriced offer to any other bidder. The Chief Procurement Officer may permit any bidder to submit supplemental information amending its offer.

- 6) Acceptability of Potentially Acceptable Unpriced Offer. Prior to phase two, the Chief Procurement Officer or Purchasing Officer shall determine whether the unpriced offers which were initially categorized as potentially acceptable are acceptable or unacceptable.

- e) Procedure for Phase Two of Multi-Step Sealed Bidding

- 1) Unless priced bids were submitted at the same time as the unpriced offers, phase two will be conducted by distributing an invitation for Bids to those bidders whose unpriced offers were ultimately determined to be acceptable during the first phase, requesting priced bids in accordance with the initial or a revised specification.

- 2) If priced bids were submitted at the same time as unpriced offers, the priced bids from the acceptable bidders will be opened in phase two.

Section 1400.2015 Competitive Sealed Proposals

- a) Competitive sealed proposals may be used whenever permitted by this Part or when the Chief Procurement Officer determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the State.

- b) The types of procurements for which the competitive sealed proposals method of source selection may be used without a written determination of the Chief Procurement Officer include the following:

- 1) electronic data processing equipment, software, and services;
- 2) telecommunications equipment, software, and services;
- 3) consulting services;
- 4) banking services; and
- 5) legal services.

- c) Generally, the Chief Procurement Officer should determine in writing that competitive sealed bidding is either not practicable or advantageous to the State, and enter into a contract by competitive sealed proposals where evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, where the types of supplies or services may require the use

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of comparative, judgmental evaluations to evaluate them adequately, or where the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration.

- 1) When Competitive Sealed Bidding Is Not Practicable. Competitive sealed bidding is not practicable unless the nature of the procurement permits an award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the specification, delivery or performance schedule, and all other terms and conditions of the Invitation for Bids.

- 2) When Competitive Sealed Bidding Is Not Advantageous. A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to the State, even though practicable, to use competitive sealed bidding.

- d) Prequalification

The Chief Procurement Officer may require that vendors are prequalified in the manner described in Section 1400.2005 for competitive sealed bidding.

- e) Request for Proposals

- 1) Solicitation. Proposals must be solicited through a Request for Proposals which must be prepared in accordance with the requirements for an Invitation for Bids for competitive sealed bidding in Section 1400.2005 and contain the following additional information:

- A) A requirement that proposals are submitted in two parts. The first part should cover all items except price and the second part should cover price.

- B) A statement that discussions may be conducted with offerors who submit proposals determined to be reasonably capable of being selected for award, but that proposals may be accepted without a discussion.

- C) A statement of when and how price should be submitted.

- 2) Publication and Documentation of the Request for Proposals. The Request for Proposals must be published as provided in Section 1400.1505 and made part of the procurement file.

- f) Receipt, Opening and Recording of Proposals

Proposals and modifications must be time-stamped upon receipt but not opened and held in a secure place until the established due date. Proposals must be opened publicly in the presence of at least one witness at the time and place designated in the Request for Proposals, but proposals must be opened in a manner to avoid disclosure of their contents to competing offerors. A record of proposals must be prepared and must be open for inspection after contract is awarded. The register of proposals must include for all proposals the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The register of proposals must be made part of the procurement file and be open to public inspection after award of the contract. Proposals and modifications may be shown only to personnel having a

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legitimate interest in them.

- g) Evaluation of Proposals
 - 1) Proposals must state all of the evaluation factors, including price, and their relative importance.
 - 2) Evaluation. The evaluation must be based on the evaluation factors in the Request for Proposals. Factors not specified in the Request for Proposals must not be considered. Numerical rating systems may be used but are not required. The first part of all proposals covering items other than price must be evaluated and ranked independently of the second part of all proposals.
 - 3) Classifying Proposals. For the purpose of conducting discussions, proposals must be initially classified as:
 - A) acceptable;
 - B) potentially acceptable; or
 - C) unacceptable, in which case the Chief Procurement Officer or Purchasing Officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.
 - h) Proposal Discussions with Individual Offerors
 - 1) Offerors that are classified as acceptable or potentially acceptable must be given a fair and equal opportunity to discuss their proposals.
 - 2) Purposes of Discussions. Discussions are held to:
 - A) promote understanding of the Treasurer's office requirements and the offerors' proposals; and
 - B) facilitate arriving at a contract that is most advantageous to the State taking into consideration price and the other evaluation factors in the Request for Proposals.
 - 3) Clarification of the Request for Proposals. If during discussions there is a need for any substantial clarification of, or change in, the Request for Proposals, the Request for Proposals must be amended to incorporate the clarification or change. Any substantial oral clarification of a proposal must be reduced to writing by the offeror.
 - 4) Best and Final Offers. The Chief Procurement Officer may request best and final offers with a common date and time for submission of the offers. The Chief Procurement Officer, or his or her designee, may conduct additional discussions or change the Treasurer's office requirements and require another submission of best and final offers. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediately previous offer will be construed as its best and final offer.
 - 5) Disclosure of Information. In conducting discussions there must be no disclosure of any information derived from proposals submitted by competing offerors. Any other information that is

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disclosed to any offeror must be provided to all competing offerors.

- i) Award
 - 1) Determination. The award must be made by the Chief Procurement Officer or Purchasing Officer in accordance with a written determination showing the basis on which the award was found to be the most advantageous to the State, based on the Request for Proposals.
 - 2) Notification, Publication and Documentation of the Award. The successful offeror will be promptly notified of the award. The notification of the award and the written determination must be published as provided in Section 1400.1505 and made part of the procurement file.

Section 1400.2020 Small Purchases

- a) Application

Any individual procurement of supplies that does not exceed \$10,000 or any individual procurement of professional or artistic services for a nonrenewable term of less than one year that does not exceed \$20,000, may, at the discretion of the Chief Procurement Officer, be made without notice, competition, publication, or use of any prescribed method of source selection.
- b) Adjustment

Each July 1, the small purchase maximum established in subsection (a) will be adjusted for inflation as determined by the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor and rounded to the nearest \$100.
- c)

In determining whether a contract is under the limit, the value of the contract for the full term and any optional renewals, as well as the stated value of the goods or services plus any optional goods and services, must be utilized. Where the term is calculated month-to-month or in a similar fashion, the amount must be calculated for a twelve-month period.
- d) Procurement requirements must not be artificially divided to avoid using one of the other source selection methods described in this Part.
- e) If, after signing the contract, the actual need is determined to be more than the limits provided in this Section, and the Chief Procurement Officer determines that repurchase is not appropriate, the Chief Procurement Officer may follow the procedures for sole source or emergency procurement, if applicable, to obtain the additional supplies or services.

Section 1400.2025 Sole Source Procurements

- a) Application

The provisions of this Section apply to procurement from a sole

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economically feasible source (referred to as sole source) that is above the limit for small purchases in Section 1400.2020 and does not qualify as an emergency procurement as defined in Section 1400.2030.

b) Conditions for Use of Sole Source Procurement

Sole source procurement is permissible when a good or service is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item.

c) Changes to existing contracts germane to the original contract, which are necessary or desirable to complete the project, and which can be best accomplished by the contract holder, may be procured under this provision.

d) The determination as to whether a procurement may be made as a sole source must be made by the Chief Procurement Officer in writing and must include an explanation of why no other source would be suitable or acceptable. The determination must be made part of the procurement file. The Chief Procurement Officer shall also specify the application of the determination and the duration of its effectiveness.

e) The Chief Procurement Officer shall, having defined a sole economically feasible source, issue a notice of intent to utilize the sole source method of procurement that sets forth a description of the item to be procured and the intended sole source contractor. A notice containing the following information must be published as provided in Section 1400.1505:

- 1) name of the Chief Procurement Officer or Purchasing Officer, who performed the sole source procurement;
- 2) name of the vendor;
- 3) brief description of what the vendor will do or provide;
- 4) contract price; and
- 5) reason why the vendor was determined to be the sole economically feasible source.

f) If there is no challenge to the Chief Procurement Officer's determination or if the Chief Procurement Officer is convinced that the sole source designation is appropriate after considering the challenge, the contract will be executed on the scheduled date. If a challenge is received that convinces the Chief Procurement Officer that the sole source designation is not appropriate, the Chief Procurement Officer or Purchasing Officer shall commence a competitive method of procurement unless an emergency situation exists.

g) Negotiation in Sole Source Procurement
The Chief Procurement Officer or Purchasing Officer shall conduct negotiations in an effort to obtain the most favorable price, delivery and other terms and conditions available for the State.

h) Maintenance of Record
The Chief Procurement Officer or Purchasing Officer shall maintain a

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record of sole source procurements in the procurement file showing:

- 1) the vendor's name;
- 2) the amount and type of the contract; and
- 3) a listing of the goods or services procured under each contract.

Section 1400.2030 Emergency Procurements

a) Applications

The provisions of this Section apply to every procurement over the small purchase limit set in Section 1400.2020 that the Chief Procurement Officer determines is necessary under the following circumstances:

- 1) public health or safety, including if the health or safety of any particular person, is threatened;
- 2) repairs are needed to State property to protect against further loss or damage to State property, or to prevent loss or damage to State property;
- 3) action is needed to prevent or minimize serious disruption in the operation of the Treasurer's office;
- 4) action is needed to ensure the integrity of State records;
- 5) a supplier of needed goods or services makes an announcement that giving a purchase immediately is in the State's best interest, including but not limited to an announcement of bankruptcy, going out of business, or loss of franchise;
- 6) commodity items are available on the spot at prices that are favorable enough that good business judgment mandates a purchase;
- 7) legal services to assist the Treasurer's office in the formulation of policy, in drafting or evaluating documents, or in determining the extent of statutory authority are needed more quickly than an alternative method of procurement under this Part would allow;
- 8) escrow agent services for general obligation bonds and procurements for escrow agent services and registrar and paying agent services for college savings bonds are needed more quickly than an alternative method of procurement under this Part would allow; or
- 9) bids or proposals received in accordance with a competitive sealed bid or competitive sealed proposal method are unreasonable, noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals.

b) Scope of Emergency Conditions

Emergency procurements must be limited to those supplies, services, or construction items necessary to meet the emergency.

c) Authority to Make Emergency Procurements

The Chief Procurement Officer or Purchasing Officer may make emergency procurements when the need cannot be met through normal procurement

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a brief explanation and is published as provided in Section 1400.1505, should be procured as a small purchase in accordance with Section 1400.2020.

- b) Uniform Procedures and Forms
The Chief Procurement Officer shall develop uniform procedures and forms for use in the solicitation, review, and acceptance of all professional and artistic services. In addition to whatever information the Chief Procurement Officer requires and what is otherwise required by this Part, the following details must be included among the forms:
 - 1) a description of the goal to be achieved;
 - 2) the services to be performed;
 - 3) the need for the service;
 - 4) the qualifications that are necessary; and
 - 5) a plan for post-performance review.The forms must be published as provided in Section 1400.1505.

- c) Contract Requirements
Contracts must contain at least the following information:
 - 1) the details listed in subsection (b);
 - 2) the duration of the contract, with a schedule of services, if applicable;
 - 3) the method for charging and measuring cost;
 - 4) the rate of remuneration;
 - 5) the maximum price; and
 - 6) any provisions that are required by the Chief Legal Counsel.

- d) Written Determinations Required Prior to Request for Proposals
Prior to announcing the need for professional or artistic services, the Chief Procurement Officer or Purchasing Officer shall make a written determination that explains the nature of the services and how the Chief Procurement Officer or Purchasing Officer reached the determination that the services are professional or artistic. The written determination must be made part of the procurement file.

- e) Prequalification
The Chief Procurement Officer may maintain a list of prequalified professional and artistic vendors. Vendors seeking to be added to the list shall submit a statement of qualifications in the following format:
 - 1) the name of the vendor, the location of the vendor's principal place of business and any other locations that may be used to perform a contract with the Treasurer's office;
 - 2) educational qualifications and licenses;
 - 3) general background and experience;
 - 4) a listing and description of government contracts, including contracts with the Treasurer's office;
 - 5) resumes of the persons who will be responsible for performance of any contract awarded;
 - 6) statement of compliance with all State of Illinois requirements; and

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methods, but, whenever practicable, existing contracts must be utilized and, whenever practicable, approval by the Chief Procurement Officer must be obtained prior to the procurement.

- d) Source Selection Methods
Any method of source selection, whether identified in this Part or not, may be used to conduct the emergency procurement. The procedure used must be selected to assure that the required supplies, services, or construction items are procured in time to meet the emergency. As much competition as is practicable must be obtained.

- e) Filing with the Auditor General
The Chief Procurement Officer or Purchasing Officer shall file an affidavit with the Auditor General within 10 days after making an emergency procurement setting forth the amount expended, the name of the contractor involved, and the conditions and circumstances requiring the emergency procurement. When only an estimate of the cost is available, the estimate should be provided in the affidavit and the actual cost must be reported immediately after it is determined.

- f) Determination, Record and Publication of Emergency Procurements
1) Determination. The Chief Procurement Officer or Purchasing Officer shall make a written determination stating the basis for an emergency procurement and for the selection of the particular vendor.

- 2) Record. A record of each emergency procurement must be made as soon as practicable and must include the following information:

- A) the vendor's name;
- B) the amount and type of the contract (if only an estimate of the amount is available immediately, the record must be supplemented with the final amount once known);
- C) a description of what the vendor will do or provide;
- D) the reasons for using the emergency procurement method of source selection;
- E) the name of the Chief Procurement Officer or Purchasing Officer.
- 3) The written determination and the record of the emergency procurement must be made part of the procurement file and must be published as provided in Section 1400.1505 of this Part.

Section 1400.2035 Procurement of Professional and Artistic Services

- a) The provisions of this Section apply to every procurement of professional and artistic services with the exception of the following:

- 1) sole source procurements;
- 2) emergency procurements; and
- 3) any procurement of professional and artistic services less than \$20,000 for a nonrenewable term of less than one year that the Chief Procurement Officer determines, in a writing that contains

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- 7) any additional relevant information. Vendors may amend statements of qualifications at any time by filing a new statement.
- f) Request for Proposals
- 1) Contents. The Request for Proposals must be drafted or approved by the Chief Procurement Officer and must contain at least the following information:
 - A) the type and scope of services required;
 - B) a date by which proposals for the performance of the services must be submitted;
 - C) the type of information and data required of each offeror;
 - D) how the price should be presented;
 - E) the factors to be used in the evaluation and selection process and their relative importance; and
 - F) when practicable, a draft contract with a notice to the vendors that by submitting a response they are consenting to the terms and conditions of the draft agreement and agree to be bound by a final agreement that is substantially similar to the draft.
 - 2) Evaluation. Proposals must be evaluated only on the basis of evaluation factors stated in the Request for Proposals. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:
 - A) the plan for performing the required services;
 - B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
 - C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
 - D) a record of past performance of similar work.
 - 4) Publication and Filing. The Request for Proposal must be published as provided in Section 1400.1505 and must be made part of the procurement file.
 - g) Bidders' Conferences

Bidders' conferences may be conducted to enhance understanding of the procurement requirements. They must be announced to all prospective proposers known to have received a Request for Proposal. The conference may be designated as attendance mandatory or attendance optional. The conference should be held long enough after the Request for Proposals has been issued to allow proposers to become familiar with it, but sufficiently before the opening of proposals to allow consideration of the conference results in preparing their proposals. Only the written minutes of the conference are binding. Nothing stated in the bidders' conference changes the Request for Proposals unless a change is made by written amendment to the Request for

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- Proposals. Minutes of the conference must be supplied upon request.
- h) Amendments to Requests for Proposals
- 1) Form. Amendments to Requests for Proposals must be identified and must require that the proposer acknowledge receipt of all amendments issued. The amendment must reference the portions of the Request for Proposals it amends.
 - 2) Distribution. Amendments must be sent to all prospective proposers known to have received a Request for Proposal.
 - 3) Timeliness. Amendments must be distributed within a reasonable time to allow prospective bidders to consider them in preparing their bids. If necessary, the Chief Procurement Officer may extend the response time in writing, or by facsimile or telephone and confirmed in the amendment.
 - i) Receipt and Handling of Proposals

Proposals and modifications must be sent to the Chief Procurement Officer where they must be time-stamped upon receipt but not opened and held in a secure place until the established due date and time, at which time they will be opened by the Chief Procurement Officer. Proposals must not be opened publicly nor disclosed to unauthorized persons and must be opened in the presence of at least one witness. A record of proposals that includes the following must be established for all proposals: the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the services offered. The register of proposals must be open to public inspection only after award of the contract and must be made part of the procurement file at that time. To the extent permitted by the contract entered into with the vendor, the successful proposal must be available for inspection by the public; however, proposals of offerors who are not awarded the contract must not be open to public inspection.
 - j) Request for Nondisclosure of Data

If the offeror selected for award has requested in writing the nondisclosure of trade secrets and other proprietary data so identified, the Chief Procurement Officer shall examine the request in the proposal to determine its validity prior to entering into negotiations with the offeror. If the parties do not agree as to the disclosure of data in the contract, the Chief Procurement Officer may reject the proposal.
 - k) Discussions
 - 1) Discussions Permissible. The Chief Procurement Officer or Purchasing Officer shall evaluate all proposals submitted and may conduct discussions with any proposer. The purposes of the discussions are to:
 - A) determine in greater detail the proposer's qualifications; and
 - B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods

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- of approach.
- 2) No Disclosure of Information. No information derived from proposals submitted by an offeror may be disclosed to any other proposer.
 - 3) Best and Final Offers. The Chief Procurement Officer may request best and final offers with a common date and time for submission of the proposals. The Chief Procurement Officer may conduct additional discussions or change the specifications or other contract requirements and require another submission of best and final proposals. If a proposer does not submit either a notice of withdrawal or another best and final offer, the proposer's immediate previous proposal will be construed as its best and final proposal.
 - 1) Negotiation and Award of Contract
 - 1) General. The Chief Procurement Officer or Purchasing Officer shall negotiate a contract with the best qualified proposer, based on the evaluation factors in the request for proposals, for the required services at compensation determined in writing to be fair and reasonable.
 - 2) Successful Negotiation of Contract with Best-Qualified Proposer. If compensation, contract requirements, and contract documents can be agreed upon with the best-qualified proposer, the contract must be awarded to that proposer, unless the procurement is cancelled.
 - 3) Failure to Negotiate Contract with Best-Qualified Offeror.
 - A) If compensation, contract requirements, or contract documents cannot be agreed upon with the best qualified proposer, a written record stating the reasons must be made part of the procurement file and the Chief Procurement Officer or Purchasing Officer shall advise that proposer of the termination of negotiations.
 - B) Upon failure to negotiate a contract with the best-qualified offeror, the Chief Procurement Officer or Purchasing Officer may enter into negotiations with the next most qualified offeror.
 - 4) Ranking by Price. For contracts with annualized value that exceeds \$25,000, evaluation and ranking by price are required. The Chief Procurement Officer may, with the Treasurer's approval, select an offeror other than the offeror with the most favorable price, if the Chief Procurement Officer explains in a written decision why another offeror was selected. A copy of the decision must be forwarded to the Chief of Staff for review. The written decision must be made part of the contract and published as provided in Section 1400.1505.
 - 5) Notice of Award. Written notice of award must be promptly provided to the successful offeror, published as provided in Section 1400.1505 and made a part of the procurement file. The notice must provide, at a minimum, the following:

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- A) the name of the Chief Procurement Officer or Purchasing Officer;
- B) the successful vendor;
- C) a contract reference number or other identifier; and
- D) the value of the contract.

Section 1400.2040 Procurement of Real Property Leases

a) Applicability

This Section applies to all leases for real property, including office and storage space, buildings, and other facilities for the Treasurer's office, with the exception of the following:

- 1) property of less than 10,000 square feet;
- 2) rent of less than \$100,000 per year;
- 3) nonrenewable leases with a duration of less than one year;
- 4) specialized space available at only one location; or
- 5) renewal of extension of any lease in effect before July 1, 1998 if:

- A) the Chief Procurement Officer determines in writing that the renewal or extension is in the best interest of the State;
- B) the Chief Procurement Officer submits his or her written determination and the renewal or extension to the Procurement Review Board;
- C) the Procurement Review Board does not object in writing to the renewal or extension within 30 days after its submission; and
- D) the Chief Procurement Officer publishes the renewal or extension as provided in Section 1400.1505.

b) Request for Information

Except as otherwise provided in this Section, all contracts for leases of real property must be awarded by the following Request for Information process. The Request for Information must include the following:

- 1) the type of property to be leased;
- 2) the proposed uses of the property;
- 3) the duration of the lease;
- 4) the preferred location of the property; and
- 5) a general description of the configuration desired.

c) Publication of Notice

Notice of the Request for Information must be published as provided in Section 1400.1505 and must also be published in a newspaper of general circulation in the community or communities where the Treasurer's office is seeking space.

d) Evaluation of Responses

The evaluation must be based on price and the ability of the respondent to meet the criteria in the Request for Information.

e) Negotiations with Individual Offerors

- 1) For the purpose of conducting negotiations, proposals must be

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initially classified as:

- A) acceptable;
 - B) potentially acceptable; or
 - C) unacceptable, in which case the Chief Procurement Officer or Purchasing Officer shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.
- 2) Negotiations will be entered into with respondents who are classified as acceptable or potentially acceptable for the purpose of securing a lease that is in the best interest of the State.
- 3) A written determination of the acceptability of each respondent and a report of the negotiations will be retained in the procurement file and will include the reasons for the final selection.
- f) Award
The lease will be awarded to the respondent that the Chief Procurement Officer deems to be most capable of meeting the needs of the Treasurer's office. The notice of award must be promptly provided to the successful respondent and must be published as provided in Section 1400.1505. When the lowest proposer by price is not selected, the Chief Procurement Officer shall issue a written explanation for the selection of another proposer. The written explanation must also be published as provided in Section 1400.1505.
- g) Lease Agreements
1) All leases must be in writing and approved by the Chief Legal Counsel.
- 2) Length of Leases.
A) Term. All leases must be for a term that does not exceed 10 years and must include a termination option in favor of the Treasurer's office after five years.
- B) Renewal. Leases may include a renewal option if the leases and any renewals do not exceed a 10-year term. An option to renew may be exercised only when the Chief Procurement Officer determines in writing that renewal is in the best interest of the State and notice of the exercise of the option is published as provided in Section 1400.1505.
- h) Purchase Option
Initial leases of all space in entire, free-standing buildings must include an option to purchase exercisable by the State, unless the Chief Procurement Officer determines that inclusion of a purchase option is not in the State's best interest and publishes that determination as provided in Section 1400.1505.
- i) Rent Without Occupancy
Except when deemed by the Procurement Review Board to be in the best interest of the State, the Treasurer's office may not incur rental obligations before occupying the space rented.
- j) Local Site Preference

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The Chief Procurement Officer may, in his or her discretion, give leasing preferences to sites located in enterprise zones, tax increment financing districts or redevelopment districts.

Section 1400.2045 Other Methods of Source Selection

- a) CMS Warehouses
Prior to any equipment procurement, the Treasurer's office should consider property available from the State and Federal Surplus Warehouses that are under the jurisdiction CMS.
- b) State Agencies and Other Governmental Units
Various goods and services are available from State agencies and other governmental units. These may be procured without notice and competition.
- c) Auction
Purchases may be made at an auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable will be the amount bid and accepted plus any required buyer's premium.
- d) Donations
With approval of the Chief Procurement Officer, if the Treasurer's office receives a donation that provides the majority of the funding for a particular project, it may follow any procurement or contracting requirements established as a condition of the donation, but must follow this Part whenever practicable.

SUBPART E: GENERAL PROCUREMENT GUIDELINES

Section 1400.2505 General Provisions

- a) Late Bids, Proposals, Responses, Withdrawals and Modifications
1) Definition. Any bid, proposal or response received after the time, date and place set for receipt is late. Any withdrawal or modification of a bid, proposal or response received after the time and date set for opening of bids, proposals or responses at the place designated for opening is late.
 - 2) Treatment. No late bid, proposal or response, modification, or withdrawal will be considered unless it is received before contract award, and the bid, proposal, response, modification, or withdrawal would have been timely but for the action or inaction of Treasurer's office personnel.
 - 3) Records. Records must be made and kept for each late bid proposal, response, modification, or withdrawal.
 - 4) Any other submission that has a time or date deadline must be treated in the same manner as a late bid, proposal or response.
- b) Extension of Time
1) The date or time for submitting a bid, proposal, response, modification or withdrawal may be extended by the Chief

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Procurement Officer prior to the date or time for the convenience of the Treasurer's office.

- 2) After opening bids, proposals, or responses the Chief Procurement Officer may request that the offerors extend the time during which the State may accept their bids, proposals, or responses if, with regard to bids, no other change is permitted. The reasons for requesting the extension must be documented.

c) Electronic and Facsimile Submissions

- 1) The Invitation for Bids, Request for Proposals, or Request for Information may state that electronic and facsimile submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the Invitation for Bids, Request for Proposals or Request for Information.

- 2) Electronic submissions will be opened in accordance with electronic security measures in effect at the time of opening. Unless the electronic submission procedures provide for a secure receipt, the vendors assume the risk of premature disclosure due to submission in unsealed form.

- 3) Facsimile submissions must be placed in a sealed container upon receipt and opened as other submissions. The vendors assume the risk of premature disclosure due to submission in unsealed form.

d) Intent to Submit

The Invitation for Bids, Request for Proposals, or Request for Information may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid, proposal, or response. Bids, proposals, and responses submitted without complying with the notice of intent requirement will be rejected.

e) Only One Bid, Proposal or Response Received

If only one responsive bid, proposal, or response is received, an award may be made to the single offeror if the Chief Procurement Officer finds that the price submitted is fair and reasonable, and that either other prospective offerors had a reasonable opportunity to respond or there is not adequate time for resolicitation. Otherwise:

- 1) new bids, proposals or responses may be solicited;
- 2) the procurement may be cancelled; or
- 3) if the Chief Procurement Officer determines in writing that the need for the supply or service continues, but that:
 - A) after attempting to negotiate a better price, the one offer is not fair and reasonable and there is no time for resolicitation;
 - B) the vendor is not responsive; or
 - C) resolicitation would likely be futile,

the procurement may be conducted with any vendor as a sole source procurement under Section 1400.2025 or as an emergency procurement under Section 1400.2030, as appropriate.

f) Unsolicited Offers

- 1) Defined. An unsolicited offer is any offer other than one

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submitted in response to a solicitation.

- 2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.

- 3) Evaluation. The unsolicited offer will be evaluated to determine its utility to the State and whether it would be to the State's advantage to enter into a contract based on the offer. An unsolicited offer that meets the requirements of subsection (f)(2) above may be considered for award if the procurement also meets the requirements of Section 1400.2020 for small purchases or Section 1400.2025 for sole source procurements, in which case those procedures must be followed as applicable.

- 4) Confidentiality. Any request for confidentiality of data contained in an unsolicited offer must be made in writing. If an award is made, confidentiality of data must be agreed upon by the parties and governed by the provisions of the contract. If agreement cannot be reached on confidentiality, the Chief Procurement Officer or Purchasing Officer shall reject the unsolicited offer.

g) Clarification of Bids, Proposals and Responses

The Chief Procurement Officer or Purchasing Officer may request that a vendor clarify its bid, proposal or response as a part of the evaluation process. A vendor is not allowed to change its bid, proposal or response in response to a request for clarification without the written approval of the Chief Procurement Officer.

h) Extension of Time on Indefinite Quantity Contracts

The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the Chief Procurement Officer determines in writing that it is not practicable to award another contract at the time of the extension.

i) Increase in Quantity on Definite Quantity Contracts

The quantity that may be ordered from a definite quantity contract may be increased by up to 20% provided the Chief Procurement Officer or Purchasing Officer determines that separate procurement of the additional quantity is not likely to achieve lower pricing. The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the small purchase threshold applicable to the type of good or service.

j) Novation or Change of Name

- 1) Assignment. No State contract is transferable, or otherwise assignable without the written consent of the Chief Procurement Officer, but a vendor may assign monies receivable under a contract after due notice to the State. Assignment may require the execution of a contract with the assignee that meets all requirements for contracting with the State.

- 2) Recognition of a Successor in Interest; Novation. When in the

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best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee must agree that:

- A) the transferee assumes all of the transferor's obligations;
- B) the transferee meets all requirements for contracting with the State;
- C) the transferor waives all rights under the contract as against the State; and
- D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the State, furnish a satisfactory performance bond.

- 3) Change of Name. When a vendor requests to change the name in which it holds a contract with the State, the Chief Procurement Officer shall, upon receipt of a document indicating the change of name, enter into an agreement with the requesting vendor to effect the change of name. The agreement changing the name must specifically indicate that no other terms and conditions of the contract are changed.

- k) Contracting for Installment Purchase Payments, Including Interest Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate shall not exceed that established by law.

Section 1400.2510 Tie Bids and Proposals

- a) Tie bids and proposals are those from responsive and responsible vendors that are identical in price or evaluation.

- b) Tie bids and proposals are treated as follows:

- 1) If the tied vendors include an Illinois resident vendor and a non-resident vendor, the Illinois resident vendor is given the award. "Illinois resident vendor" has the meaning given in Section 1400.4510. In all other situations, the decision is made in accordance with subsections (b)(2) through (b)(5).

- 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award is made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the State may be given additional consideration in determining responsibility if the Chief Procurement Officer or Purchasing Officer determines that dealing with a vendor that has knowledge of State requirements, contracts, job sites, payment practices and other similar factors, and with which there has been favorable past experience, increases the likelihood of successful performance.

- 3) If there is no significant difference in responsibility, but there is a difference in the quality of the goods or services offered, the vendor offering the best quality is accepted.

- 4) If there is no significant difference in responsibility and no

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difference in quality of the goods or services offered, the vendor offering the earliest delivery time is accepted in any case in which the solicitation specified that the needs of the Treasurer's office require as early delivery as possible.

- 5) If the bids or proposals are equal in every respect, the award is made by lot unless the Chief Procurement Officer determines that splitting the award among two or more of the tied bidders or proposers is in the best interest of the State. Awards may be split if all affected bidders or proposers agree, if splitting is feasible given the type of good or service requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.

- c) Record

Records must be made of all procurements on which tie bids or proposals are received and must be published as provided in Section 1400.1505, showing at least the following information:

- 1) the identification number of the solicitation;
 - 2) the good or service; and
 - 3) a listing of all the bidders or proposers and the prices submitted.
- 4) The records must be made part of the procurement file.

Section 1400.2515 Correction or Withdrawal of Proposals

- a) General

Corrections to bids, proposals or responses are allowed, but only to the extent correction is not prejudicial to the interest of the State or fair competition as determined by the Chief Procurement Officer or Purchasing Officer. Withdrawals of proposals are allowed as provided in this Section.

- b) Mistakes Discovered Before Opening

A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.

- c) Confirmation of Mistake

When the Chief Procurement Officer or Purchasing Officer knows or has reason to conclude that a mistake has been made, the officer should request the vendor to confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake in the bid, proposal or response, it may be corrected or withdrawn if the conditions in this Section, as applicable, are met.

- d) Mistakes Discovered After Opening but Before Award

- 1) Minor Mistakes. A minor mistake is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid, proposal or response from the exact requirement of the solicitation, the correction or waiver of which would not be prejudicial to the State. The Chief

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Procurement Officer or Purchasing Officer shall waive minor mistakes or allow the offeror to correct them depending on which is in the best interest of the State. Minor mistakes include insignificant mistakes where the effect on price, quantity, quality, delivery, or contractual conditions is negligible. Examples of minor mistakes as to form include the failure of an offeror to:

- A) return the number of signed bids, proposals, or responses required by the solicitation;
- B) sign the bid, proposal or response, but only if the unsigned bid, proposal or response is accompanied by other material indicating the offeror's intent to be bound, including but not limited to signature on an auxiliary form, submission of a guarantee or submission of a signed transmittal letter; or
- C) acknowledge receipt of an amendment to the solicitation, but only if:
 - i) it is clear from the bid, proposal or response that the offeror received the amendment and intended to be bound by its terms; or
 - ii) the amendment involved had a negligible effect on price, quantity, quality, or delivery.

- 2) Corrections of Mistakes. If discussions are not held or if the best and final offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:
 - A) the mistake and the intended correct offer are clearly evident on the face of the bid, proposal or response, in which event the offer may not be withdrawn; or
 - B) the mistake is not clearly evident on the face of the bid, proposal or response, but the offeror submits adequate proof which clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and that correcting the mistake would not be contrary to the fair and equal treatment of other offerors.

- 3) Withdrawal of Bids, Proposals or Responses. If discussions are not held, or if the best and final offers upon which award will be made have been received, the offeror may be permitted to withdraw the bid, proposal or response if:
 - A) the mistake is clearly evident on the face of the proposal and the intended correct offer is not;
 - B) the offeror submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or
 - C) the offeror submits adequate proof that clearly and convincingly demonstrates the intended offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.

- e) Mistakes Discovered After Award

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Mistakes may not be corrected after award of the contract except when the Chief Procurement Officer finds it would be unconscionable not to allow the mistake to be corrected.

- f) Determinations Required
When a proposal is corrected or withdrawn, or correction or withdrawal is denied, the Chief Procurement Officer or Purchasing Officer shall prepare a written determination documenting that relief was granted or denied in accordance with this Part.

Section 1400.2520 Cancellation of Solicitations and Rejection of Offers

- a) Scope of this Section

The provisions of this Section govern the cancellation of any Invitation for Bids, Request for Proposals, Request for Information or any other solicitation issued by the Treasurer's office and the rejection of any or all bids, proposals or responses in whole or in part.

- b) Policy

Any solicitation may be cancelled without penalty, and any or all bids, proposals or responses may be rejected in whole or in part, when the Chief Procurement Officer or Purchasing Officer determines in writing that cancellation is in the State's best interest.

- c) Notice, Publication and Documentation

When a solicitation is cancelled or the offers are rejected, notice of the cancellation or rejection will be promptly provided to all affected vendors, published as provided in Section 1400.1505, and made part of the procurement file.

SUBPART F: SPECIFICATIONS AND SECURITY REQUIREMENTS**Section 1400.3005 Specifications**

- a) The Chief Procurement Officer's Responsibilities Regarding Specifications

The Chief Procurement Officer shall write or authorize the writing of all specifications. A Purchasing Officer may write specifications for procurements for the Treasurer's office, subject to approval of the Chief Procurement Officer.

- b) Specifications Prepared by Other Than State Personnel

- 1) Specifications may be prepared by other than Treasurer's office personnel, including, but not limited to, consultants, architects, engineers, designers, and other drafters of specifications for public contracts. Contracts for the preparation of specifications by other than State personnel must require the specification writer to adhere to State requirements.
- 2) The person who prepared the specifications may not submit a bid or proposal to meet the procurement need unless the Chief Procurement Officer determines in writing that it would be in the

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best interest to accept a bid or proposal from that person and a notice to that effect is published as provided in Section 1400.1505.

c) Procedures for the Development of Specifications

- 1) All procurements must be based on specifications that accurately reflect the State's needs. Specifications must clearly and precisely describe the salient technical or performance requirements.
- 2) Specifications must not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate State needs. All specifications must be written in a manner that describes the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
- 3) Any specifications or standards adopted by business, industry, a not-for-profit organization or governmental unit may be adopted by reference.
- 4) A specification may provide alternate descriptions where two or more design, functional, or performance criteria will satisfactorily meet the State's requirements.

d) Brand Name or Equal Specification

- 1) Brand name or equal specifications may be used when the Chief Procurement Officer or Purchasing Officer determines in writing that:
 - A) time does not permit the preparation of another form of specification, not including a brand name specification;
 - B) the nature of the product or the nature of the requirement makes use of a brand name or equal specification suitable for the procurement; or
 - C) use of a brand name or equal specification is in the State's best interest.
- 2) Brand name or equal specifications must seek to designate more than one brand as "or equal", and must further state that substantially equivalent products to those designated will be considered for award.
- 3) Required Characteristics. Unless the Chief Procurement Officer determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications must include a description of the particular design, functional, or performance characteristics that are required.
- 4) Nonrestrictive Use of Brand Name or Equal Specifications. When a brand name or equal specification is used in a solicitation, the solicitation must contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal"

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submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. The burden of proof that a product is equal is on the offeror.

e) Brand Name Only Specification

- 1) Use. A brand name only specification may be used only when the Chief Procurement Officer makes a written determination that is made part of the procurement file that only the identified brand name item or items will satisfy the State's needs.
- 2) Competition. The Chief Procurement Officer or Purchasing Officer shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit those sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement must be made as a sole source procurement.

Section 1400.3010 Security Requirements

- a) The Chief Procurement Officer may require that a vendor furnish bid, proposal, or performance security on any contract.
- b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit, or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.
- c) Unless the amount is set by law, the Chief Procurement Officer shall determine the amount, in dollars or percentage of contract price, that adequately protects the State's interests.
- d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, responsibility is questioned and for other similar reasons.
- e) The Treasurer's office may require a bid or proposal security or a performance security on any contract.
- f) A vendor may submit a single or continuous security each year that will be applicable on all contracts of the Treasurer's office. When a security is obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted for any new contract awarded.
- g) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

SUBPART G: CONTRACTS

Section 1400.3505 Types of Contracts

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- a) General
The Chief Legal Counsel shall determine the general form of all contracts. Subject to the limitations of this Section, the Chief Legal Counsel may use any type of contract that promotes the best interest of the State.
- b) Prohibitions and Limitation
Cost-plus-a-percentage-of-cost contracts are prohibited. Cost-reimbursement contracts may only be used when the Chief Procurement Officer makes a written determination that a cost-reimbursement contract is likely to be less costly to the State than any other type or that it is impracticable to obtain the item except under that type of contract.

Section 1400.3510 Duration of Contracts

- a) General
1) A multi-year contract for a term up to ten years is authorized when it is in the best interest of the State.
2) A license agreement or other agreement may have a term longer than 10 years, including a perpetual term, provided the payment term is limited to no more than ten years.
- b) The contractual obligation of the Treasurer's office in each fiscal period after the period in which a contract is executed is subject to appropriation and availability of funds for the obligation. Every contract that extends beyond the fiscal year that the contract is awarded must provide that, in the event that funds are not available for any subsequent fiscal period, the remainder of the contract may be cancelled by the State without penalty to or further payment being required by the State. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.
- c) Conditions for Use of Multi-year Contracts
A multi-year contract may be used when:

- 1) special production of definite quantities or the furnishing of long-term services are required to meet State needs; or
- 2) it is determined by the Chief Procurement Officer that a multi-year contract will serve the best interest of the State by encouraging effective competition or otherwise promoting economies in State procurement. The following factors must be considered by the Chief Procurement Officer before making the determination:
 - A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion and will be encouraged to participate in the competition when they are assured of recouping the costs during the period of contract performance;
 - B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or

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- performance over a longer period of time, can be expected to result in lower unit prices;
- c) stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality; or
- d) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.
- d) Multi-year Contract Procedure
The solicitation must state:
- 1) the proposed term;
 - 2) the amount of supplies or services required for the proposed contract period;
 - 3) whether offerors may submit prices for:
 - A) the first fiscal period only;
 - B) the entire time of performance only; or
 - C) both the first fiscal period and the entire time of performance.
 - 4) that a multi-year contract may be awarded and how award will be determined.
- e) Renewals
1) Where the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years and the option is reserved solely to the State.
2) Where the original procurement was silent as to renewals, further procurement activity is required.

Section 1400.3515 Contract Pricing

Unless otherwise allowed by the solicitation, prices quoted will be all-inclusive covering transportation, transit insurance, delivery, installation, taxes, and any other costs.

Section 1400.3520 Contract Provisions

- a) Mandatory provisions
The following provisions are required for all contracts entered into by the Treasurer's office, in addition to the requirements of State and federal law and the regulations of the Office of the Comptroller:
- 1) Subcontractors. Any contract granted hereunder must state whether the services of a subcontractor will be used. The contract must include the names and addresses of all subcontractors and the expected amount of money each will receive under the contract. The contractor will be required to get approval from the Chief Procurement Officer prior to adding or changing subcontractors.
 - 2) Subject to Appropriation. All leases must recite that they are

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subject to termination and cancellation in any year for which the General Assembly fails to make an appropriation to make payments under the terms of the lease.

3) Right to Audit Books and Records.

A) Maintenance of books and records. Every contract and subcontract must require the contractor or subcontractor, as applicable, to maintain books and records relating to the performance of the contract or subcontract and necessary to support amounts charged to the State under the contract or subcontract. The books and records must be maintained by the contractor or subcontractor for a period of 3 years from the later of the date of final payment under the contract or completion of the contract or subcontract and the 3-year period must be extended for the duration of any audit in progress at the time of that period's expiration.

B) Audit. Every contract and subcontract must provide that all books and records required to be maintained under subsection (a) must be available for review and audit by the Auditor General and the Treasurer's office. Every contract and subcontract must require the contractor and subcontractor, as applicable, to cooperate fully with any audit.

C) Failure to maintain books and records. Failure to maintain the books and records required by this Section will establish a presumption in favor of the State for the recovery of any funds paid by the State for which required books and records are not available.

b) Optional Provision

Any contract entered into by the Treasurer's office under this Part may contain a clause requiring that if more favorable terms are granted by the contractor to any similar governmental agency in any state in a contemporaneous agreement let under the same or similar financial terms and circumstances for comparable supplies or services, the more favorable terms will be applicable under the contract.

Section 1400.3525 Prevailing Wage Requirements

a) Applicability

All services, as defined in subsection (b), furnished under service contracts of \$2,000 or more or \$200 or more per month and under printing contracts are subject to the following prevailing wage requirements:

1) Not less than the general prevailing wage rate of hourly wages for work of a similar character in the locality in which the work is produced may be paid by the successful vendor to its employees who perform the work on the State contracts. The offeror, in order to be considered to be a responsible offeror for the purposes of this Part, must certify to the Treasurer's office that wages to be paid to its employees are no less, and fringe

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benefits and working conditions of employees are not less favorable, than those prevailing in the locality where the contract is to be performed. Prevailing wages and working conditions are determined by the Director of the Illinois Department of Labor.

2) Whenever a collective bargaining agreement is in effect between an employer, other than governmental body, and service or printing employees as defined in this Section who are represented by a responsible organization that is in no way influenced or controlled by the management, that agreement and its provisions will be considered as conditions prevalent in that locality and will be the minimum requirements taken into consideration by the Director of Labor.

3) Collective bargaining agreements between State employees and the State of Illinois will not be taken into account by the Department of Labor in determining the prevailing wage rate.

b) As used in this Section, "services" means janitorial cleaning services, window cleaning services, food services, and security services. "Printing" means and includes all processes and operations involved in printing, including but not limited to letterpress, offset, and gravure processes, the multilith method, photographic or other duplicating process, the operations of composition, platemaking, presswork, and binding, and the end products of those processes, methods, and operations. As used in this Part "printing" does not include photocopiers used in the course of normal business activities, photographic equipment used for geographic mapping, or printed matter that is commonly available to the general public from contractor inventory.

c) For printing contracts, location means one of the following areas:

- 1) Cook County.
- 2) Boone, Bureau, Carroll, Champaign, DeKalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogle, Peoria, Piatt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermilion, Warren, Whiteside, Will, Winnebago, Woodford.
- 3) Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, Williamson.
- 4) Where the printing is performed in a plant outside the jurisdiction of this State, it is deemed produced in the Illinois locality in which delivery of the printing ordered is required to

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be made. Where the printing is required to be delivered to more than one Illinois locality, it is deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.

- d) For janitorial services, window washing and security guard services, location means the county in which the work is to be performed.
- e) This Section does not apply to services furnished under contracts for professional or artistic services.
- f) This Section does not apply to vocational programs of training for physically or mentally handicapped persons or to sheltered workshops for the severely disabled.

SUBPART H: DISPUTES, PROTESTS AND CONTROVERSIES

Section 1400.4005 Disputes and Protests Regarding Solicitations and Awards

a) Procedures

Any dispute or protest regarding solicitations and awards must be communicated to the Chief Procurement Officer by the vendors within 7 days after the protester knows or should have known of the facts giving rise thereto and before a contract is executed between the Treasurer's office and the successful vendor. The vendors may be required to provide additional information to the Treasurer's office in order to process the dispute or protest. If the Chief Procurement Officer is unable to resolve the issue in a timely manner, then it will be referred to the Procurement Review Board for a final determination that will be communicated to the vendors involved in the dispute or protest and made part of the procurement file within 7 days after the referral by the Chief Procurement Officer.

b) Procurement Delays

The investigation of a dispute or protest may cause a delay in the procurement process if deemed necessary by the Chief Procurement Officer. If an action concerning the protest has commenced in court, the Chief Procurement Officer will not act on the protest but will refer the protest to the Attorney General, unless the court requests, expects, or otherwise expresses interest in the decision of the Chief Procurement Officer.

c) Stay or Withdrawal of Award

An award may be stayed or withdrawn by the Chief Procurement Officer if the Procurement Review Board reaches a determination that to do so is necessary in fairness to the other offerors and to protect the interests of the State.

Section 1400.4010 Contract Controversies

Contract controversies must be promptly referred to the Chief Procurement Officer for resolution. If the Chief Procurement Officer is unable to resolve the controversy, the controversy will be referred to the Chief Legal Counsel

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who will attempt to resolve the matter. If the Chief Legal Counsel is unable to resolve the matter satisfactorily, he or she may request the Attorney General's assistance in resolving the dispute. Every contract entered into by the Treasurer's office must have a provision that deals with any failures by the vendor to fully perform under the terms of the agreement.

Section 1400.4015 Remedies

- a) In all of the following cases the Chief Procurement Officer may, with the approval of the Treasurer and subject to the determination of the Chief Legal Counsel under subsection (b), terminate or rescind any contract entered into under this Part in the event:
 - 1) The successful bidder or proposer fails to furnish a satisfactory performance bond within the time specified.
 - 2) The vendor fails to make delivery at the place or within the time specified in the contract or as ordered.
 - 3) Any goods or services provided under the contract are:
 - A) rejected (for not meeting the specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced or corrected by the vendor; or
 - B) repeatedly rejected, even though the vendor offers to replace the goods or services promptly.
 - 4) There is sufficient evidence to show that the contract was obtained by fraud, collusion, conspiracy, or other unlawful means.
 - 5) The vendor is guilty of misrepresentation in connection with another contract for the sale of goods or services to the State and cannot reasonably be depended upon to fulfill his or her obligations as a responsible vendor under any of his or her contracts with the State.
 - 6) The vendor should be adjudged bankrupt or enters into a general assignment for the benefit of his or her creditors or receivership due to insolvency.
 - 7) The vendor disregards laws and ordinances, rules, or instructions of a contracting officer or acts in violation of any provision of the contract or this Part, or the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.
 - 8) Any other breach of contract or other unlawful act by the vendor occurs.

b) Determination of Right to Terminate or Rescind Contract

The Chief Legal Counsel shall determine in writing that a violation listed in subsection (a) has occurred prior to the termination or rescission of a contract under this Section.

c) Contracts that are terminated under this Section will be terminated at no cost to the State.

d) Withholding Money to Compensate State for Damages

If a contract is terminated or rescinded under this Section, the State

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may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on his or her part on which the cancellation is based.

e) Damages

The damages for which the State may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy include, but are not limited to, the following:

- 1) the additional cost of goods or services bought elsewhere;
- 2) cost of repeating the procurement procedure;
- 3) any expenses incurred because of delay in receipt of goods or services; and
- 4) any other damages caused by the vendor's breach of contract or unlawful act.

f) Effect of Declaring a Contract Null and Void

In all cases where a contract is voided, the Treasurer's office will endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments will be made under the contract.

g) In lieu of terminating or rescinding the contract, when appropriate the Chief Procurement Officer may seek to negotiate an alternative resolution that is at least as beneficial to the State as termination or rescission, but the Chief Procurement Officer must not waive the right to terminate or rescind the contract if the situation does not improve.

Section 1400.4020 Suspension

a) Application

This rule applies to all suspensions of vendors from consideration for award of contracts.

b) The Chief Procurement Officer may suspend a vendor from doing business with the Treasurer's office for all or specific types of supplies or services. A suspension may be issued upon a determination by the Chief Procurement Officer that the vendor violated this Part or failed to conform to specifications or terms of delivery.

c) When the Chief Procurement Officer determines that cause exists for suspension, a notice of suspension, including a copy of the determination, must be sent to the suspended vendor. Bids, proposals and responses will not be solicited from the suspended vendor, and, if they are received, they will not be considered during the period of suspension.

d) A contractor may be suspended for any period of time commensurate with the seriousness of the offense. A suspension may be for an indefinite period of time subject to demonstration by the contractor that the suspension is no longer necessary.

e) The suspension will be effective within seven calendar days after

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receipt of notice unless an objection is filed. If an objection were filed, the suspension would not become effective until the evaluation of the objection by the Chief Procurement Officer is completed.

f) The Treasurer's office will not solicit or accept bids, proposals and responses from vendors of the CMS master list of suspensions and debarments during the period of suspension or debarment.

SUBPART I: PREFERENCES

Section 1400.4505 Procurement Preferences

The procurement preferences identified in this Subpart must be considered in developing procurement documents, conducting evaluations and drafting contracts.

Section 1400.4510 Resident Vendor Preference

a) "Illinois resident vendor" as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract is first advertised or announced.

b) An Illinois resident vendor will be allowed a preference as against a non-resident vendor, which is equal to the preference, if any, that the state of the non-resident vendor affords vendors from that state.

c) An Illinois resident vendor who would perform the services or provide the supplies from another state will be considered a resident of that other state as against an Illinois resident vendor who would perform the services or provide the supplies from Illinois, if that other state has an in-state preference.

d) If an Illinois resident vendor produces or performs at least 51% of the goods or services in another state, that Illinois resident vendor will be considered a resident of that other state for purposes of application of this reciprocal preference when evaluating the offer of an Illinois resident vendor that produces or performs at least 51% of the goods or services in Illinois.

e) The Chief Procurement Officer shall maintain a list of states with in-state preference that will be considered in all procurements involving out-of-state vendors. The Chief Procurement Officer may satisfy this requirement by maintaining and updating a list that has been created by CMS.

Section 1400.4515 Soybean Oil-based Ink

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Contracts requiring the procurement of printing services must specify the use of soybean oil-based ink unless the Chief Procurement Officer or Purchasing Officer determines that another type of ink is required to assure high quality and reasonable pricing of the printed product.

Section 1400.4520 Recycled Materials

When a contract is to be awarded to the lowest responsible offeror, an otherwise qualified offeror who will fulfill that contract through the use of products made of recycled materials may, on a pilot basis or in accordance with a pilot study, be given preference over other offerors unable to do so, if the cost identified in the offer of products made of recycled materials is not more than the cost of products not made of recycled materials.

Section 1400.4525 Recycled Paper

All paper purchased for use by the Treasurer's office must be recyclable paper unless recyclable paper cannot be used to meet the requirements of the Treasurer's office. The Treasurer's office will determine its paper requirements to allow the use of recyclable paper whenever possible, including without limitation using plain paper rather than colored paper that is not recyclable.

Section 1400.4530 Correctional Industries

- a) The Chief Procurement Officer will develop a list of the goods or services available from the Department of Corrections and will identify those that must be purchased from Corrections.
- b) Those items that must be purchased from Corrections may not be procured from any other source without the express written authorization of the Chief Procurement Officer.
- c) Procurements may be made from Corrections without seeking competition or giving public notice, if a record of all the purchases made from Corrections is made part of the procurement file.

Section 1400.4535 Sheltered Workshops for the Disabled

- a) Supplies and services may be procured without advertising or calling for offers from any qualified not-for-profit organization for the severely handicapped that:
 - 1) complies with Illinois laws governing private not-for-profit organizations;
 - 2) is certified as a sheltered workshop by the Wage and Hour Division of the United States Department of Labor; and
 - 3) meets the Illinois Department of Human Services just standards for rehabilitation facilities.
- b) Sheltered Workshop List

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The Chief Procurement Officer must maintain a list of all qualified sheltered workshops. The Chief Procurement Officer may rely on the list developed by CMS to satisfy this responsibility if a copy is maintained in the Treasurer's office and updated as necessary.

c) Requirements for Selection

In order to be selected as the offeror of a good or service, the not-for-profit organization must have indicated an interest in providing the supplies and services, must meet the specifications and needs of the Treasurer's office, and must set a fair market price that has been approved as provided in this Section.

d) Pricing Approval

- 1) While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar goods or services, the policy of this Part to promote procurements from sheltered workshops, and other similarly relevant factors.
- 2) The Procurement Review Board must approve contracts for reasonableness of price if:
 - A) the good or service would ordinarily be subject to competitive sealed bidding or competitive sealed proposals methods of source selection; or
 - B) the good or service is offered and the sheltered workshop is selected even though not the lowest responsible offeror.

3) The Procurement Review Board approval is not required if:

- A) the contract does not exceed the bid limit set in Section 1400.2020 for small purchases and no bidding was conducted; or
- B) the contract is let to the sheltered workshop under a competitive procedure.

- 4) When the approval of the Procurement Review Board is required, it will be given or denied in an expeditious manner so as not to disrupt procurement activities.

e) Coordination with CMS

A Purchasing Officer will be assigned the task of coordinating with the committee that is created within CMS under the Illinois Procurement Code to insure that the Treasurer's office is aware of the activities, accomplishments and findings of the committee.

Section 1400.4540 Gas Mileage

a) Specification

Contracts for the purchase or lease of new passenger automobiles, other than station wagons, vans and four-wheel drive vehicles, must specify the procurement of a model that, according to the most current mileage study published by the U.S. Environmental Protection Agency, can achieve at least the minimum average fuel economy in miles per

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gallon imposed upon manufacturers of vehicles under Title V of the Motor Vehicle Information and Cost Savings Act.

b)

The Chief Procurement Officer may exempt procurements from the requirement of subsection (a) when there is a demonstrated need, determined in writing and made part of the procurement file, for an automobile that does not meet the minimum average fuel economy standards. The Chief Procurement Officer must not exempt procurements from the requirement of subsection (a) unless it is clear that there is not a compliant vehicle available at a comparable price that will meet the needs of the Treasurer's office.

Section 1400.4545 Illinois Agricultural Products

In awarding contracts requiring the procurement of agricultural products, preference may be given to an otherwise qualified offeror who will fulfill the contract through the use of agricultural products grown in Illinois.

Section 1400.4550 Corn-based Plastics

In awarding contracts requiring the procurement of plastic products, preference may be given to an otherwise qualified offeror who will fulfill the contract through the use of plastic products made from Illinois corn by-products.

Section 1400.4555 Vehicles Powered by Agricultural Commodity-based Fuel

In awarding contracts requiring the procurement of vehicles, preference may be given to an otherwise qualified offeror who will fulfill the contract through the use of vehicles powered by ethanol produced from Illinois corn or biodiesel fuels produced from Illinois soybeans.

Section 1400.4560 Small Businesses

a) Set-Aside

The Chief Procurement Officer may designate as small business set-asides a fair proportion of contracts for the provision of goods and services for award to small businesses in Illinois. A set-aside designation may last indefinitely or for a stated period of time.

b)

If the Treasurer's office wishes to make a procurement covered by a set-aside designation, the solicitation must note that responses are limited to those from responsible small businesses. Bids, proposals or responses received from large businesses will be rejected as nonresponsive.

c) Withdrawal of Set-Aside

If the Chief Procurement Officer determines that acceptance of the best bid, proposal or response will result in the payment of an unreasonable price, the Chief Procurement Officer or Purchasing

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Officer will reject all bids, proposals or responses and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification must be published as provided in Section 1400.1505 with an explanation. After withdrawal of the small business set-aside, the procurement will be conducted in accordance with the requirements of this Part.

d) Criteria for Small Business

Unless the Chief Procurement Officer provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:

1) Independently owned and operated.

2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration must be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

3) With annual sales for the most recently ended fiscal year no greater than:

A) \$7,500,000 for wholesale business;

B) \$1,500,000 for retail business.

4) With no more than 250 employees if a manufacturing business.

A) A manufacturing business must calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis for its most recently ended fiscal year.

B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period that it has been in existence.

5) If both a wholesaler and a retailer, the combined wholesale and retail annual sales for its most recently completed fiscal year may not exceed \$9,000,000. The retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$7,500,000.

6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates must be included. Concerns are affiliates when either one directly or indirectly control or have the power to control the other, or when a third party or parties control or have the power to control both. In determining whether concerns are independently owned and operated and whether or not affiliation exists, consideration must be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However,

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a franchise relationship does not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.

- e) Reliance on the Determination of CMS

The Treasurer's office may defer to the determination by CMS that a business is a small business.

- f) Small Business Specialist

The Small Business Specialist for the Treasurer's office shall assist small businesses seeking to provide goods or services to the Treasurer's office and is specifically responsible for the following:

- 1) Compiling and maintaining a comprehensive bidders list of small businesses and cooperating with the Federal Small Business Administration in locating potential sources for various products or services. The Small Business Specialist may rely on the bidders list developed by CMS to satisfy this responsibility if a copy is maintained in the Treasurer's office and updated as necessary.

- 2) Assisting small businesses in complying with the procedures for bidding, proposing or responding to solicitations of the Treasurer's office.

- 3) Assisting in the development of small business set-asides if determined by the Chief Procurement Officer to be in the State's best interest.

- 4) Making recommendations to the Chief Procurement Officer for the simplification of specifications and terms in order to increase the opportunities for small business participation.

- 5) Assisting in investigations by the Treasurer's office to determine the responsibility of any offeror on any small business set-asides.

- g) Small business annual report

The Chief Procurement Officer shall annually before December 1 report in writing to the General Assembly concerning the awarding of contracts to small businesses. The report will include the total value of awards made in the preceding fiscal year under the designation of small business set-aside. The requirement for reporting to the General Assembly will be satisfied by filing copies of the report as required by Section 3.1 of the General Assembly Organization Act [25 ILCS 5/3.1].

Section 1400.4565 Preferences for Veterans, Minorities, Females, and Persons with Disabilities

This Part is subject to the applicable provisions of the Veterans Preference Act [330 ILCS 55] and the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575]. The Chief Procurement Officer shall do whatever is reasonably necessary to enable veterans, minorities, females, and persons with disabilities to participate in the procurement process. The Chief Procurement Officer may rely on the determination of CMS

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that a person or business qualifies for a preference under these Acts.

SUBPART J: ETHICS

Section 1400.5005 Purpose

It is the express duty of Chief Procurement Officer, Purchasing Officers and their designees to maximize the value of the expenditure of public moneys in procuring goods, services, and contracts for the Treasurer's office and to act in a manner that maintains the integrity and public trust of State government. In discharging this duty, they are charged to use all available information, reasonable efforts, and reasonable actions to protect, safeguard, and maintain the procurement process of the Treasurer's office.

Section 1400.5010 Bribery

- a) Prohibition

No person or business will be awarded a contract or subcontract under this Part who:

- 1) has been convicted under the laws of Illinois or any other state of bribery or attempting to bribe an officer or employee of the State of Illinois or any other state in the officer's or employee's official capacity; or
- 2) has made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct.

- b) Businesses

No business will be barred from contracting with any unit of State or local government as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and:

- 1) the business has been finally adjudicated not guilty; or
- 2) the business demonstrates to the governmental entity with which it seeks to contract, and that entity finds, that the commission of the offense was not authorized, requested, commanded, or performed by a director, officer, or high managerial agent on behalf of the business as provided in Section 5-4(a)(2) of the Criminal Code of 1961 [720 ILCS 5/5-4(a)(2)].

- c) Conduct on Behalf of Business

For purposes of this Section, when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business will be chargeable with the conduct.

- d) Certification

Every offer submitted to and contract executed by the State must contain a certification by the vendor that the vendor is not barred from being awarded a contract or subcontract under this Section.

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Section 1400.5015 Felons

Unless otherwise provided, no person or business convicted of a felony may do business with the Treasurer's office from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business.

Section 1400.5020 Conflicts of Interest

a) Prohibitions

1) The Treasurer and all employees of the Treasurer's office who receive compensation for the employment in excess of 60% of the salary of the Governor of the State of Illinois and the spouses and minor children of those persons may not have or acquire any contract, or any direct pecuniary interest in any contract, that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois.

2) No firm, partnership, association, or corporation in which any person described in subsection (a)(1) is entitled to receive:

- A) more than 7 1/2% of the total distributable income; or
- B) an amount in excess of the salary of the Governor, may have or acquire any contract or direct pecuniary interest in any contract that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois.

3) No firm, partnership, association, or corporation in which any person described in subsection (a)(1) together with his or her spouse or minor children is entitled to receive:

- A) more than 15%, in the aggregate, of the total distributable income; or
- B) an amount in excess of two times the salary of the Governor, may have or acquire any contract or direct pecuniary interest in any contract that will be wholly or partially satisfied by the payment of funds appropriated by the General Assembly of the State of Illinois.

b) An individual has a direct pecuniary interest in a contract when the individual is owed any payment in conjunction with performance of a contract, including finders' fees and commission payments.

c) Distributable income means the income to a company after payment of all expenses, including employee salary and bonus, and retained earnings, and which remaining amount is actually distributed to those entitled to receive a share of the income.

d) Applicability

This Section does not apply to or affect the validity of:

- 1) any bond or other security previously offered for sale, to be offered for sale or sold by or for the State of Illinois;
- 2) any contract made between the State and a person described in

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subsection (a)(1) that was in existence before the election or employment of the person if the contract can be completed within 365 days after the person takes office; otherwise, it is voidable by the State;

- 3) payments made for a public aid recipient;
- 4) any contract for personal services as a teacher or school administrator between the Treasurer, or an employee of the Treasurer's office, and a school district, public community college district, or the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governor's State University, or Northeastern Illinois University;
- 5) any contract for personal services of a wholly ministerial character, including but not limited to services as a laborer, clerk, typist, stenographer, page, bookkeeper, receptionist, or telephone switchboard operator, made by a spouse or minor child of the Treasurer or an employee of the Treasurer's office;
- 6) payments made to the Treasurer or an employee of the Treasurer's office for or on behalf of a child or family served by the Department of Children and Family Services;
- 7) contracts that are competitively procured as provided in this Part between the Treasurer's office and licensed professionals.

e) Exemptions

The Treasurer, with the approval of the Chief Procurement Officer, may exempt named individuals from the prohibitions in this Section when, in his or her judgement, the public interest in having the individual in the service of the State outweighs the public policy evidenced in this Section. An exemption is effective only when it is filed with the Secretary of State and the Comptroller and includes a statement that includes the name of the individual, all pertinent facts that would make this Section applicable, the reason for the exemption and a declaration that the individual is exempted from this Section. Notice of each exemption must be published as provided in Section 1400.1505 and made part of the procurement file.

Section 1400.5025 Negotiations for Future Employment

a) No person employed in or on a continual contractual relationship with the Treasurer's office may participate in contract negotiations on behalf of the Treasurer's office with any firm, partnership, association, or corporation with whom that person has a contract for future employment or is negotiating concerning possible future employment.

b) An individual who performs services under a contract and who meets the requirements of an "employee" or "contractual employee" as opposed to an "independent contractor" is in a "continual contractual relationship" from the effective date of the contract until the time

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the contract is terminated.

- c) "Independent contractors", as opposed to "employees" or "contractual employees", are in a "continual contractual relationship" if the contract term is indefinite, is automatically renewed, is renewable at the individual's option, is renewable unless the Treasurer's office must act to terminate, or has a definite term of at least three months.

Section 1400.5030 Revolving Door

The Chief Procurement Officer and the Purchasing Officers may not engage in any procurement activity relating to the Treasurer's office for two years after terminating their position as Chief Procurement Officer or Purchasing Officer.

Section 1400.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

- a) All offers from responsive offerors with an annual value of more than \$10,000 must be accompanied by disclosure of the financial interests of the offeror. The financial disclosure of each successful offeror must be made part of the procurement.
- b) Disclosure by the offerors must include any ownership or distributive income share that is in excess of 5%, or an amount greater than 60% of the annual salary of the Governor, of the offering entity or its parent entity, whichever is less, unless the offeror is a publicly traded entity subject to Federal 10k reporting, in which case it may submit its 10k disclosure in place of the prescribed disclosure. The form of disclosure will be prescribed by the Chief Procurement Officer and must include at least the names, addresses, and dollar or proportionate share of ownership of each person identified in this Section, their instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial relationship of each person identified in this Section having in addition any of the following relationships:
 - 1) State employment, currently or in the previous 3 years, including contractual employment services.
 - 2) State employment of spouse, father, mother, son, or daughter, including contractual employment for services in the previous 2 years.
 - 3) Elective status: the holding of elective office of the State of Illinois, the government of the United States, any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois currently or in the previous 3 years.
 - 4) Relationship to anyone holding elective offices currently or in the previous 2 years: spouse, father, mother, son, or daughter.
 - 5) Appointive office: the holding of any appointive government office of the State of Illinois, the United States of America, or

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any unit of local government authorized by the Constitution of the State of Illinois or the statutes of the State of Illinois, which office entitles the holder to compensation in excess of expenses incurred in the discharge of that office currently or in the previous 3 years.

- 6) Relationship to anyone holding appointive office currently or in the previous 2 years: spouse, father, mother, son, or daughter.
 - 7) Employment, currently or in the previous 3 years, as or by any registered lobbyist of the State government.
 - 8) Relationship to anyone who is or was a registered lobbyist in the previous 2 years: spouse, father, mother, son, or daughter.
 - 9) Compensated employment, currently or in the previous 3 years, by any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.
 - 10) Relationship to anyone (spouse, father, mother, son, or daughter) who is or was a compensated employee in the last 2 years of any registered election or re-election committee registered with the Secretary of State or any county clerk in the State of Illinois, or any political action committee registered with either the Secretary of State or the Federal Board of Elections.
- c) The disclosure in subsection (b) is not intended to prohibit or prevent any contract. The disclosure is meant to fully and publicly disclose any potential conflict to the Chief Procurement Officer, Purchasing Officers, their designees, and executive officers so they may adequately discharge their duty to protect the State.
 - d) In the case of any contract for personal services in excess of \$50,000; any contract competitively procured in excess of \$250,000; any other contract in excess of \$50,000; when a potential for a conflict of interest is identified, discovered, or reasonably suspected, the Chief of Staff shall review and comment on it in writing. The Chief of Staff shall provide his comment to the Chief Procurement Officer who must determine in writing whether to void or allow the contract, bid, proposal or response weighing the best interest of the State of Illinois. The comment and determination must be part of the procurement file.
 - e) These thresholds and disclosure do not relieve the Chief Procurement Officer, Purchasing Officers, or their designees from reasonable care and diligence for any contract, bid, proposal or response. The Chief Procurement Officer, Purchasing Officers, or their designees shall use any reasonably known and publicly available information to discover any undisclosed potential conflict of interest and act to protect the best interest of the State of Illinois.
 - f) Inadvertent or accidental failure to make any disclosure required by this Section will render the contract, bid, proposal, response or relationship voidable by the Chief Procurement Officer if he or she deems it in the best interest of the State of Illinois and, at his or

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her discretion, may be cause for barring from future contracts, bids, proposals, responses or relationships with the State for a period of up to 2 years.

- g) Intentional, willful or material failure to make any disclosure required by this Section will render the contract, bid, proposal, response or relationship voidable by the Chief Procurement Officer if he or she deems it to be in the best interest of the State of Illinois and will result in suspension from future contracts, bids, proposals, responses or relationships for a period of not less than 2 years and not more than 10 years. Reinstatement after 2 years and before 10 years must be reviewed and commented on in writing by the Chief of Staff. The Chief of Staff must provide the review to the Chief Procurement Officer who must rule in writing whether and when to reinstate. The comment and determination must be part of the procurement file.

- h) In addition, all disclosures must note any other current or pending contracts, leases, bids, proposals, responses or other ongoing procurement relationships the bidding, proposing, or responding entity has with any other unit of State government and must clearly identify the unit and the contract, lease, bid, proposal, response or other relationship.

Section 1400.5040 Reporting Anticompetitive Practices

When, for any reason, any vendor, bidder, proposer, respondent or employee of the Treasurer's office, including the Chief Procurement Officer and Purchasing Officers suspects collusion or other anticompetitive practice among any bidders, proposers, respondents or employees of the Treasurer's office, a notice of the relevant facts must be transmitted to the Attorney General and the Chief Procurement Officer.

Section 1400.5045 Confidentiality

The Chief Procurement Officer, Purchasing Officers and their designees are subject to immediate dismissal and may be subject to criminal prosecution for willfully using or allowing the use of specifications, procurement documents or proprietary information to compromise the fairness or integrity of the procurement or contract process.

Section 1400.5050 Insider Information

It is unlawful for the Treasurer or any employee of the Treasurer's office to knowingly use confidential information available only by virtue of that office or employment for actual or anticipated gain for themselves or another person.

Section 1400.5055 Additional Provisions

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This Part is subject to applicable provisions of the following Acts:

- a) Article 33E of the Criminal Code of 1961 [720 ILCS 5/Art. 33E];
- b) the Illinois Human Rights Act [775 ILCS 5];
- c) the Discriminatory Club Act [775 ILCS 25];
- d) the Illinois Governmental Ethics Act [5 ILCS 420];
- e) the State Prompt Payment Act [30 ILCS 540];
- f) the Public Officer Prohibited Activities Act [50 ILCS 105]; and
- g) the Drug Free Workplace Act [30 ILCS 580].

Section 1400.5060 Other Violations

Any employee of the Treasurer's office, including the Chief Procurement Officer and Purchasing Officers, who willfully violates or allows the violation of this Part is subject to immediate dismissal.

Section 1400.5065 Supply Inventory

The Treasurer's office should inventory or stock no more equipment, supplies, commodities, articles, and other items than are reasonably necessary for the efficient functioning of the Treasurer's office. The Treasurer's office must seek to have no more than a 12-month supply of any equipment, supplies, commodities, or other items, unless there is a justifiable reason for doing so.

SUBPART K: CONCESSIONS**Section 1400.5505 Concessions**

- a) All Concessions, including the assignment, license, sale, or transfer of interests in or rights to discoveries, inventions, patents, or copyrightable works, may be entered into by the Treasurer's office, if the concession is reduced to writing and awarded by one of the procurement methods described in this Part, except that the contract will be awarded to the highest and best offeror. The duration and terms of concessions and leases of State property must be in accordance with this Part.

- b) Proposed concessions or leases of State property under this Part must be coordinated with CMS to ensure compliance with the State Property Control Act and rules implementing that Act.

SUBPART L: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY**Section 1400.6005 Severability**

If any provision of this Part or any application thereof is held invalid, the invalidity will not affect other provisions or applications of this Part that can be given effect without the invalid provision or application.

Section 1400.6010 Government Furnished Property

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If the Treasurer's office provides any property to the vendor in furtherance of the contract, the property will remain the property of the State but may be consumed by the vendor if necessary to complete the contract. The vendor shall issue a receipt for the property and will be responsible for its safekeeping and return of unused property to the State.

Section 1400.6015 Inspections**a) Inspection of Plant or Site**

The State may enter a contractor's or subcontractor's plant or place of business to:

- 1) inspect supplies or services for acceptance by the State under the terms of a contract;
- 2) audit the books and records of any contractor or subcontractor under Section 1400.4020(d);
- 3) investigate an action to suspend a person from consideration for award of contracts in accordance with Section 1400.4020;
- 4) determine whether the standards of responsibility have been met or are capable of being met; and
- 5) determine if the contract is being performed in accordance with its terms.

b) Inspection and Testing of Supplies and Services

1) Solicitation and Contractual Provisions. Treasurer's office contracts may provide that the Treasurer's office may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether they conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. The inspections and tests are conducted in accordance with the terms of the solicitation and contract.

2) Procedures for Trial Use and Testing. The Chief Procurement Officer may establish operational procedures governing the testing and trial use of equipment, material, and other supplies by the Treasurer's office, and the application of resulting information and data to specifications or procurements.

c) Conduct of Inspections

1) Inspectors. Inspections or tests are performed so as not to unduly delay the work of the contractor or subcontractor. No inspector other than the Chief Procurement Officer may change any provision of the specifications or the contract without written authorization of the Chief Procurement Officer. The presence or absence of an inspector does not relieve the contractor or subcontractor from any requirements of the contract.

2) Location. When an inspection is made in the plant or place of business of a contractor or subcontractor, the contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.

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- 3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any contractor or subcontractor must be performed at reasonable times.

Section 1400.6020 No Waiver of Sovereign Immunity

Nothing in this Part will be deemed to be a waiver of sovereign immunity.

Section 1400.6025 Postage Stamps

All postage stamps purchased from State funds must be perforated for identification purposes.

Section 1400.6030 Printing

All books, pamphlets, documents, and reports published through or by the Treasurer's office must have printed thereon "Printed by the authority of the State of Illinois", the date of each publication, the number of copies printed, and the printing order number. No publication may have written, stamped, printed, or attached to it "Compliments of . . . (naming a person)" or any words of similar import.

Section 1400.6035 Annual Reports

Every printed annual report produced by the Treasurer's office must bear a statement indicating whether it was printed by the State of Illinois or by contract and indicating the printing costs per copy and the number of copies printed. For every annual report prepared, a report must be prepared detailing the quantity of annual reports printed, the total cost, the cost per copy, and the cost per page of the annual report. The report will be submitted to the General Assembly on the fourth Wednesday of January in each year that a report is produced by the Treasurer's office and made part of the procurement file.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Early Intervention Program
- 2) Code Citation: 59 Ill. Adm. Code 121
- 3) Section Numbers: Adopted Action:
121.45 Amended
- 4) Statutory Authority: Implementing and authorized by Section 9 of the Early Intervention Services System Act [325 ILCS 20/9].
- 5) Effective Date of Rulemaking: April 27, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: April 27, 1998
- 9) Notice of Proposal Published in Illinois Register: June 6, 1997, 59 Ill. Reg. 6673
- 10) Has JCAR Issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version: Two grammatical changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part: No
- 15) Summary and Purpose of Rule(s): Part 121 is being amended to require agencies with early intervention programs in accordance with the Early Intervention Act [325 ILCS 20] and this Part to report suspected incidents of abuse or neglect against individuals in these programs to the appropriate law enforcement agencies and the Department of Children and Family Services in accordance with the Abused and Neglected Children Reporting Act [325 ILCS 5].

The Department realized the need for this rulemaking during the development of its rules on the investigations of alleged abuse or neglect and deaths in State-operated and community agency facilities. These rules (59 Ill. Adm. Code 50) were proposed on January 2, 1998.
- 16) Information and answers to questions regarding these Adopted Amendments shall be directed to:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
(217) 785-9772
TTY: (217) 557-1547

The full text of Adopted Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 59: MENTAL HEALTH
CHAPTER I: DEPARTMENT OF HUMAN SERVICES

PART 121

EARLY INTERVENTION PROGRAM

SUBPART A: GENERAL PROVISIONS

Section	Purpose
121.10	Incorporation by reference
121.15	Early intervention service principles
121.20	Child and family rights and confidentiality
121.25	Definitions
121.30	

SUBPART B: PROVIDER REQUIREMENTS

Section	
121.35	General requirements
121.40	Environmental management
121.45	Administrative requirements
121.50	Personnel requirements
121.55	Recordkeeping
121.60	Program evaluation
121.65	Utilization review

SUBPART C: OPERATIONAL PROCEDURE AND SERVICES

Section	
121.70	Time frame for completion of process
121.75	Screening and social history
121.80	Assessment
121.85	Eligibility, notice requirements and time frames for compliance
121.90	Individualized family service plan (IFSP) development and modification
121.95	Transdisciplinary or interdisciplinary team
121.100	Early intervention services
121.105	Discharge
121.110	Exit criteria
121.115	Transition process

SUBPART D: HEARINGS AND APPEALS

Section	
121.120	Representation
121.125	Notice
121.130	Pre-hearing conference
121.135	Conduct of hearings

DEPARTMENT OF HUMAN SERVICES

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121.140 Hearing officer's decision
121.145 Appeal to the Director
APPENDIX A Utilization Guidelines

AUTHORITY: Implementing and authorized by Section 9 of the Early Intervention Services System Act [325 ILCS 20/9].

SOURCE: Adopted at 17 Ill. Reg. 4261, effective March 23, 1993; amended at 18 Ill. Reg. 15587, effective October 5, 1994; amended at 21 Ill. Reg. 8268, effective June 25, 1997; recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; amended at 22 Ill. Reg. ~~7962~~ **7963**, effective **APR 27 1998**.

SUBPART B: PROVIDER REQUIREMENTS

Section 121.45 Administrative requirements

- a) Each provider shall establish a mechanism to obtain input from parents of and advocates for children receiving early intervention services from the provider. The provider shall either establish an advisory committee that reports recommendations directly to the governing body or have consumer representatives on the governing body. If the advisory committee is the mechanism used, it shall include parents of and advocates for children receiving early intervention services from the provider.
- b) Each provider shall adhere to current Illinois statutes regarding conflict of interest and adopt a written policy concerning conflict of interest.
- c) Staff and volunteer training
 - 1) Staff training in principles and practices shall be provided to direct service and professional staff, and shall include but not be limited to, the following area:
 - A) Cardiopulmonary resuscitation (CPR), Heimlich maneuver and first aid;
 - B) Proper handling and positioning of infants and toddlers;
 - C) Concepts on age and cultural appropriateness, normal/abnormal child development, and other developmental services depending on the needs of the child and family served or to be served;
 - D) Safety, fire, and disaster procedures including:
 - i) Use of fire-fighting equipment; and
 - ii) Familiarity with the disaster preparedness plan.
 - E) Responsibilities under the Abused and Neglected Child Reporting Act to report suspected abuse and neglect;
 - F) Prevention, handling and reporting of unusual incidents (e.g., injury of child, parent appearing at site who is under restraining order);
 - G) Individual rights according to Chapter 2 of the Code and

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maintaining confidentiality according to the Confidentiality Act;

- H) The nature, structure and monitoring of the IFSP;
 - I) Infection control and sanitation;
 - J) Food preparation and handling for staff who prepare and serve food to children; and
 - K) The type, dosage, characteristics and side effects of medications prescribed for children receiving services.
- 2) The provider shall ensure that volunteers are trained appropriately prior to their working with children and families. For volunteers working directly with children, training shall include areas discussed in subsections (C)(1)(A), ††(B), ††(C), ††(D) and ††(E) of this Section above and in other subsections as necessary.
- d) Child and family records
- 1) The parent or parent substitute shall give informed consent to participate in the services specified in the individualized family service plan, that shall be documented in the child and family's record.
 - 2) The program shall ensure the confidentiality of the child and family's records according to the Confidentiality Act and shall ensure safekeeping of all records against theft, loss or destruction. Upon request, families which are currently receiving services shall have access within one day to the child and family's records and three days to obtain a copy. A family that has applied and been denied services shall also have access to the records.
 - 3) The program shall maintain a chronological record for each child and family which documents services and supports provided. A complete set of records shall be located at one site, designated by the program, which is accessible and convenient to staff and the parent or parent substitute contributing to the plan.
 - 4) Specific information shall be obtained, recorded and updated as necessary. The child and family's record shall be maintained with periodically updated background information to ensure a comprehensive view of the child's development.
 - 5) The child and family's record shall contain all prior service and assessment information during the period of service.
 - 6) The child and family's financial record shall include the financial status of the child and family at service initiation, with an annual update.
- e) Fiscal and statistical requirements
- 1) A provider shall not charge children and families who are at or below 185 percent of the federal poverty level, after all allowable deductions, for any early intervention services.
 - 2) For children and families who are above 185 percent of the federal poverty level, a provider shall comply with the following:

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- A) The provider shall establish a sliding fee scale for services based on the parent or parent substitute's ability to pay, after all allowable deductions. Consideration shall also be given to the additional costs normally associated with caring for a child with a disability.
 - B) A sliding fee scale shall be established for the following services:
 - i) Developmental services;
 - ii) Occupational therapy;
 - iii) Physical therapy;
 - iv) Psychological services;
 - v) Speech therapy; and
 - vi) Transportation.
 - C) The parent or parent substitute may elect to have his or her insurance billed for the cost of services in lieu of paying the fees directly.
 - D) Children and families shall not be charged for the following services:
 - i) Screening;
 - ii) Social history;
 - iii) Assessment;
 - iv) IFSP development, review and modification; and
 - v) Service facilitation.
 - E) No one shall be denied services based on an inability to pay.
 - F) If the provider accepts the Medicaid reimbursement rate for a service, the provider cannot charge a child or family any additional amount. The Medicaid reimbursement rate for a service is derived pursuant to the Department's rule at 59 Ill. Adm. Code 122.70.
- 3) A provider shall report services rendered under the early intervention program to the Department in the manner required by the Department. These reports shall include the following:
- A) Each type of service provided to each child or family, including the date of service and the number of units provided.
 - B) The provider shall keep and make available such hard copy records and source documents associated with each submitted service report as necessary to disclose fully the nature and extent of services reported therein.
- f) Unusual incidents
- 1) The provider shall have written policies and procedures for handling, investigating, reporting, tracking and analyzing unusual incidents through the provider's management structure, up to and including the authorized agency representative. The provider shall ensure that staff demonstrate their knowledge of, and follow such policies and procedures that shall include but are not limited to, the following:

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- A) Sexual assault;
B) Abuse or neglect;
C) Death;
D) Physical injury;
E) Assault;
F) Missing persons;
G) Theft; and
H) Criminal conduct.

2) Within 24 hours after an occurrence the agency shall report any incident that is subject to the Criminal Code of 1961 [720 ILCS 5] to the appropriate law enforcement agencies.

3) The provider shall ensure that suspected instances of abuse or neglect against individuals in early intervention programs are reported to the Department of Children and Family Services according to the requirements of the Abused and Neglected Child Reporting Act [325 ILCS 5].

(Source: Amended at 22 Ill. Reg. 7962.1, effective
APR 27 1998)

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NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Food Stamps

2) Code Citation: 89 Ill. Adm. Code 121

3) Section Numbers: 121.105
Adopted Action: New Section

4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

5) Effective Date of Rulemaking: May 15, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: May 15, 1998

9) Notice of Proposal Published in Illinois Register: January 16, 1998, 22 Ill. Reg. 1647

10) Has JCAR Issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: The following changes were made in the text of the proposed rules:

1. In Section 121.105(a), the comma after "Supplemental Security Income" was deleted.

2. In Section 121.105(b)(1), the "or" after "Department of Human Service" was changed to a comma.

No other changes were made in the text of the proposed rules.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? Yes

14) Are there any amendments pending on this Part: Yes

Section Numbers	Proposed Action	Illinois Register Citation
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121.63	Amendment	21 Ill. Reg. 7639
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15) Summary and Purpose of Rulemaking: Pursuant to provisions of Senate Bill 320, these amendments implement the State Food Program. Senate Bill 320

DEPARTMENT OF HUMAN SERVICES

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allows for the State Food Program to provide food benefits for children, elderly, or disabled/blind noncitizens who, if they met food stamp citizenship rules, would qualify for food stamps. The State Food Program began January 1, 1998.

Senate Bill 320 authorized the Department of Human Services to provide nutrition services to noncitizens who are 65 years of age or older, under 18 years of age, or disabled, and who were in the United States prior to August 22, 1996 and are not eligible for the Federal Food Stamp Program due to their noncitizen status. New Section 121.105 was proposed to create the State Food Program. The State Food Program is being created to provide assistance with the food needs of individuals ineligible for the Food Stamp Program solely due to citizenship requirements. To qualify, individuals must be under age 18, or age 65 or older, or disabled. Individuals who qualify for the program and are under age 18 will receive \$80 in monthly food stamp benefits. Individuals who qualify for the program and are elderly or disabled will receive \$43 in monthly food stamp benefits.

It is anticipated that this Illinois nutrition services program will serve about 14,800 legal immigrants this year. Funds have been appropriated for this program through June, 1998. The State Food Program began on January 1, 1998 and will end on June 30, 1998. The program would cost an estimated \$9.3 million to continue in 1999.

- 16) Information and answers to questions regarding these Adopted Amendments shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, IL 62762
(217) 785-9772
TTY: (217) 557-1547

The full text of Adopted Amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

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Work Requirement
Ending a Voluntary Quit Disqualification
Citizenship
Residence
Social Security Numbers
Work Registration/Participation Requirements
Individuals Exempt From Work Registration Requirements
Failure to Comply
Period of Sanction
Voluntary Job Quit
Good Cause for Voluntary Job Quit
Exemptions from Voluntary Quit Rule

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

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Unearned Income
Exempt Unearned Income
Education Benefits
Unearned Income In-Kind
Lump Sum Payments and Income Tax Refunds
Earned Income
Budgeting Earned Income
Exempt Earned Income
Income from Work/Study/Training Programs

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121.52 Earned Income from Roomer and Boarder
 121.53 Income From Rental Property
 121.54 Earned Income In-Kind
 121.55 Sponsors of Aliens
 121.57 Assets
 121.58 Exempt Assets
 121.59 Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section

121.60 Net Monthly Income Eligibility Standards
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 121.62 Income Which Must Be Annualized
 121.63 Deductions From Monthly Income
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SUBPART E: HOUSEHOLD CONCEPT

Section

121.70 Composition of the Assistance Unit
 121.71 Living Arrangement
 121.72 Nonhousehold Members
 121.73 Ineligible Household Members
 121.74 Strikers
 121.75 Students
 121.76 Households Receiving AFDC, SSI, Interim Assistance and/or GA -
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SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section

121.80 Fraud Disqualification (Renumbered)
 121.81 Initiation of Administrative Fraud Hearing (Repealed)
 121.82 Definition of Fraud (Renumbered)
 121.83 Notification To Applicant Households (Renumbered)
 121.84 Disqualification Upon Finding of Fraud (Renumbered)
 121.85 Court Imposed Disqualification (Renumbered)
 121.90 Monthly Reporting and Retrospective Budgeting
 121.91 Monthly Reporting
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 121.93 Issuance of Food Stamp Benefits
 121.94 Replacement of the EBT Card or Food Stamp Benefits
 121.95 Restoration of Lost Benefits
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 121.98 Client Training for the Electronic Benefits Transfer (EBT) System
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121.120 Recertification of Eligibility
 121.130 Residents of Shelters for Battered Women and their Children
 121.131 Fleeing Felons and Probation/Parole Violators
 121.135 Incorporation By Reference
 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section

121.150 Definition of Intentional Violations of the Program
 121.151 Penalties for Intentional Violations of the Program
 121.152 Notification To Applicant Households
 121.153 Disqualification Upon Finding of Intentional Violation of the Program
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SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section

121.160 Persons Required to Participate
 121.162 Participation and Cooperation Requirements
 121.164 Orientation
 121.166 Assessment and Employability Plan
 121.170 Job Search Component
 121.172 Basic Education Component
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 121.184 Sanctions
 121.186 Good Cause for Failure to Cooperate
 121.188 Supportive Services
 121.190 Conciliation and Fair Hearings
 121.200 Types of Claims (Recodified)
 121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
 121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
 121.203 Collecting Claim Against Households (Recodified)
 121.204 Failure to Respond to Initial Demand Letter (Recodified)
 121.205 Methods of Repayment of Food Stamp Claims (Recodified)
 121.206 Determination of Monthly Allotment Reductions (Recodified)
 121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
 121.208 Suspension and Termination of Claims (Recodified)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by

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Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20,

1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121-200 thru 121-208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective

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January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. ~~7969~~ 7969, effective MAY 15 1998.

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section 121.105 State Food Program

Effective January 1, 1998, through June 30, 1998, individuals who are ineligible for the Food Stamp Program solely on the basis that they do not meet citizenship requirements contained in Section 121.20 may qualify for the State Food Program.

- a) Individuals must meet the citizenship requirements to qualify for a cash assistance program of the Department of Human Services, must have entered the U.S. prior to 8/22/96, and must be either under age 18, or age 65 or older, or disabled (including blind). Disabled individuals must receive Supplemental Security Income or must apply for Supplemental Security Income and be found disabled by the Department of Human Services to be considered disabled.
- b) Individuals meet the financial eligibility requirements of the program in the following ways:
 - 1) Individuals automatically qualify if they receive cash assistance from the Department of Human Services, Supplemental Security Income, or are excluded members of an active food stamp household.
 - 2) Individuals may qualify if they meet the gross income and asset standards.
 - A) The gross income standard is \$514 per month.
 - B) The asset limit is \$2,000.
 - i) One motor vehicle is exempt regardless of value if it is necessary for employment; or needed for

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transportation for medical treatment of a specific or regular medical problem; or modified for operation by or transportation of a handicapped person; or needed to provide transportation for essential daily activities because of climate, terrain, remoteness, or similar factors.

- ii) If the individual's vehicle is not exempt due to one of the above factors, then one vehicle, with a current fair market value of no more than \$4,500, will be exempt. Any excess fair market value above \$4,500 shall be applied to the asset limit.

c) If the individual is elderly, disabled or blind, the monthly benefit amount is \$43 per person.

d) If the individual is under age 18, the monthly benefit amount is \$80 per person.

(Source: Added at 22 Ill. Reg. ~~7969~~ 7969, effective MAY 15 1998)

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1) Heading of the Part: Minimum Standards for Certification of Developmental Training Programs

2) Code Citation: 59 Ill. Adm. Code 119

3) Section Numbers: 119.260
Adopted Action:
Amended

4) Statutory Authority: Implementing Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.2] and the Health Care Worker Background Check Act [225 ILCS 46] and authorized by Section 15.2 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.2]

5) Effective Date of Rulemaking: April 27, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date Filed in Agency's Principal Office: April 27, 1998

9) Notice of Proposal Published in Illinois Register: June 6, 1997, 59 Ill. Reg. 6680

10) Has JCAR Issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part: No

15) Summary and Purpose of Rulemaking: Part 119 is being amended to require agencies with developmental training programs certified under this Part to report suspected incidents of abuse or neglect against individuals in these programs to the Office of Inspector General (Section 6.2 of the Abused and Neglected Long Term Care Facility Residents Reporting Act [210 ILCS 30/6.2]).

The Department realized the need for this rulemaking during the development of its rules on the investigations of alleged abuse or neglect and deaths in State-operated and community agency facilities. These rules (59 Ill. Adm. Code 50) were proposed on January 2, 1998.

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16) Information and answers to questions regarding these Adopted Amendments shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772
TTY: (217) 557-1547

The full text of Adopted Amendments begins on the next page:

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TITLE 59: MENTAL HEALTH

CHAPTER I: DEPARTMENT OF HUMAN SERVICES

PART 119

MINIMUM STANDARDS FOR CERTIFICATION OF DEVELOPMENTAL TRAINING PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section

119.100 Applicability
119.110 Incorporation by reference
119.120 Definitions

SUBPART B: PROGRAM REQUIREMENTS

Section

119.200 General requirements
119.205 Criteria for participation of individuals
119.210 Exclusion, suspension or discharge of an individual
119.215 Program staff
119.220 Interdisciplinary team (team)
119.225 Assessment of individuals
119.230 Individual services plan (plan)
119.235 Individual rights and confidentiality
119.240 Special training procedures
119.245 Committees
119.250 Medications and medical care
119.255 Environmental management
119.260 Administrative requirements
119.261 Application for waiver of the prohibition against employment

SUBPART C: CERTIFICATION REQUIREMENTS

Section

119.300 Issuing a certificate and period of certification
119.305 Application for certification
119.310 Application acceptance and verification
119.315 Non-transferability of a certificate
119.320 Cessation of operations
119.325 Certificate denial
119.330 Hearings

AUTHORITY: Implementing Section 15.2 of the Department of Mental Health and Developmental Disabilities Act [20 ILCS 1705/15.2] and the Health Care Worker Background Check Act [225 ILCS 46] and authorized by Section 15.2 of the Department of Mental Health and Disabilities Act [20 ILCS 1705/15.2].

SOURCE: Adopted at 14 Ill. Reg. 17227, effective October 9, 1990; emergency

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amendment at 16 Ill. Reg. 2662, effective February 1, 1992, for a maximum of 150 days; emergency expired June 30, 1992; amended at 21 Ill. Reg. 2195, effective February 1, 1997; amended at 21 Ill. Reg. 6067, effective May 5, 1997; amended at 21 Ill. Reg. 8297, effective June 25, 1997; recodified from the Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; amended at 22 Ill. Reg. 119.260 Administrative requirements

APR 27 1998

SUBPART B: PROGRAM REQUIREMENTS

Section 119.260 Administrative requirements

a) Governing body

1) Each program which is owned or operated by any corporation, association, or unit of local government shall have a governing body in which is vested authority and responsibility for the organization, management, control and operation of the program in compliance with the General Not For Profit Corporation Act of 1986 [805 ILCS 105] (Ill.-Rev.-Stat.-1989--ch--327--part--181-1--et seq-7, and with the Department's rules at 59 Ill. Adm. Code 103 (Grants).

2) The names and addresses of all owners or controlling parties (whether they are sole proprietorship, association, partnership, corporation, or subdivisions of other bodies, such as public agencies or religious, fraternal or other charitable organizations) shall be fully disclosed and provided to the Department annually. For corporations, the names and addresses of all officers, directors, and principal stockholders, either beneficial or of record, shall be disclosed.

3) The governing body shall include persons who have no direct or indirect financial interest in the program and who reside in the geographic area served by the program and include persons with developmental disabilities and consumer representatives.

4) The provider shall notify the governing body of the Department's annual survey and other State and local inspections which indicate the outcome and disposition of any findings resulting from a survey.

b) Advisory board

1) A program which is owned or operated by a sole proprietor or partnership shall appoint and maintain an advisory board whose members shall be persons who have no direct or indirect financial interest in the program, and who reside in the geographic area served by the program, and who include persons with developmental disabilities and consumer representatives.

2) The advisory board shall ensure that each program owned or operated by a sole proprietor or partnership shall have a charter, mission statement, goals and objectives.

c) Authorized agency representative

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The provider shall appoint an authorized agency representative whose qualifications and duties are defined in writing and include authority for program administration and management. His or her performance shall be reviewed and documented annually by the governing body.

- d) Provider policy requirements
- 1) The program shall have written policies which shall be reviewed annually, revised as necessary and approved by the governing body or advisory board and shall describe:
 - A) Goals and objectives reflecting annual and long-range plans;
 - B) The population served, including age groups, disabilities and the geographic service area;
 - C) The services provided in response to individual and community needs including:
 - i) The hours and days of operation;
 - ii) The methods used to perform initial screening and assessment of individuals;
 - iii) A description of processes used for development of the services plan;
 - iv) The use and approval of special training procedures such as time-out, restraint and aversive techniques;
 - v) Handling emergencies and disasters; and
 - vi) Maintenance of buildings, vehicles and equipment.
 - 2) Program policy shall ensure the availability of professional, administrative and support staff to assess and address the needs of individuals. This includes personnel and consultants who can communicate, either verbally or non-verbally, with individuals.
 - 3) Program policy shall ensure that Department-authorized consumer-interest groups shall be permitted, with the consent of the individuals, to visit a program.
 - A) Consumer interest groups must request authorization in writing to visit specific programs. The request shall be made to the Department and shall specify the program to be visited and the reason for the group's proposed visit. If the group agrees to the conditions set out below, the request shall contain those agreements.
 - B) The Department shall authorize a group to visit a program for a period of one year if:
 - i) The group has as one of its organizational purposes to review public services for mentally disabled individuals;
 - ii) The group agrees that its visits will not interfere with the program; and
 - iii) The group agrees to abide by the provisions of the Act concerning records and communications of individuals in programs.
 - C) The Department shall revoke its authorization or not renew the authorization if it has information that the group has not abided by the conditions set out above.

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- D) Any group whose authorization has been denied, revoked or not renewed may appeal the decision in writing to the Director, who shall review the decision and accept or reverse it within 30 days. The Director shall uphold the decision if he or she finds that the group has not abided by this part.
- e) Personnel requirements
- 1) Programs shall not discriminate in the hiring or employment of staff on the basis of race, color, age, national origin, sex, religion, or handicap.
 - 2) Personnel policies and procedures shall be in writing and available for review.
 - 3) The program shall have written job descriptions or contractual agreements for every position, including consultant and direct-service volunteer positions, which list the job title, duties and responsibilities, minimum experience and educational requirements, immediate supervisor and subordinates.
 - 4) Staff shall be licensed, registered or certified by the State, if required.
 - 5) When paraprofessional or untrained staff are used in direct services, they shall be supervised by professional staff.
 - 6) A pay plan for all position titles in used shall be available for review by the Department.
- f) Staff and volunteer training
- 1) Training in principles and practices in the following areas shall be provided to direct service and professional staff:
 - A) Cardiopulmonary resuscitation (CPR), Heimlich maneuver and first aid;
 - B) Behavior management;
 - C) Normalization;
 - D) Age and cultural appropriateness;
 - E) Safety, fire, and disaster procedures including:
 - i) Use of fire-fighting equipment; and
 - ii) Familiarity with the disaster preparedness plan.
 - F) Prevention, handling, and reporting of abuse, neglect, exploitation, unusual incidents (see subsection (h) of this Section below);
 - G) Individual rights in accordance with Chapter 2 of the Code and maintaining confidentiality in accordance with the Act;
 - H) Team planning;
 - I) Infection control and sanitation; and
 - J) Food prevention and handling for staff who prepare and serve food to individuals.
 - 2) Training for volunteers working directly with individuals shall be provided in the areas discussed in subsections (f)(1)(A), (f)(E), (f)(F) and (f)(G) of this Section above. The agency shall provide a training program for other volunteers.
- g) Quality assurance

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- 1) There shall be a written quality assurance plan and ongoing activities designed to review and evaluate services to individuals, operation of programs and to resolve identified problems.
- 2) The scope of quality assurance shall include reviewing semi-annually, or more frequently if problems are identified, at least the following:
 - A) Service planning;
 - B) The use of special training procedures including behavior management procedures;
 - C) Unusual incidents relative to services to individuals;
 - D) Service utilization;
 - E) Individuals' records ensuring that they meet the requirements of this part;
 - F) Subcontracted services to ensure that the needs of individuals are being met; and
 - G) The status of individuals receiving service.
- 3) Records of quality assurance reviews and activities shall be filed separately from the records of individuals.

h) Unusual incidents

- 1) The provider shall ensure that staff can respond to unusual incidents, by informing professional personnel and supervisory staff, documenting observations and actions, and providing support, and shall have written policies and procedures for handling, investigating, reporting, tracking and analyzing unusual incidents through the provider's management structure, up to and including the authorized agency representative. The provider shall ensure that staff demonstrate their knowledge of, and follow such policies and procedures that shall include such incidents, including but are not limited to:

- A) Rape or sexual assault;
- B) Abuser or neglect or exploitation;
- C) Death;
- D) Physical injury requiring medical care and treatment;
- E) Assault;
- F) Missing individuals;
- G) Theft; and
- H) Criminal conduct.

- 2) Within 24 hours after becoming aware of an incident, the provider shall report to the appropriate local law enforcement agencies any incident which is subject to the Criminal Code of 1961 [720 ILCS 5]. (Ill. Rev. Stat., 1989, ch. 90, par. 1-1 et seq.)

- 3) The provider shall ensure that suspected instances of abuse or neglect against individuals in programs that are certified by the Department are reported to the Office of Inspector General (Section 6.2 of the Abused and Neglected Long Term Care Facility Residents Reporting Act [210 ILCS 30/6.2]). The provider shall

DEPARTMENT OF HUMAN SERVICES

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report instances of abuser, neglect or exploitation of individuals to the Bureau no later than the next working day. Such reports shall be investigated by the Bureau. If the allegation involves a residential facility, the complainant shall also be directed to call the Illinois Department of Public Health hotline. If the allegation involves an agency funded by Department but not a program or agency licensed, certified or authorized by the Bureau, the Department's Division of Developmental Disabilities shall investigate. If the allegation involves an entity who is not a program or agency, the complainant shall be directed to call local law enforcement authority.

i) Individual's record (record)

- 1) The program shall ensure the confidentiality of an individual's record in accordance with the Act and shall ensure safekeeping of all records against loss or destruction. Individuals or their guardians shall have access to the individual's record upon request.
- 2) The program shall maintain a chronological record for each individual. Records shall be located at a site, designated by the program, that is accessible and convenient to staff contributing to the plan.
 - A) Each entry shall be eligible, dated and authenticated by the signature and title of the person making the entry.
 - B) Corrections shall be initialed and made in such a way as to leave the original incorrect entry legible.
 - C) When symbols or abbreviations are used, the program shall provide a legend, standardized throughout the program, to explain them.
- 3) The following information shall be obtained and recorded when an individual enters a program, and shall be updated as necessary:
 - A) Identifying information including name, date of birth, sex, race, social security number and legal status;
 - B) The name, address and telephone number of the guardian or the person to be notified in case of an emergency;
 - C) The language spoken or understood by the individual including, in the case of a hearing impaired or non-verbal individual, the individual's preferred mode of communication, e.g., American sign language, signed English, aural, oral or tactile communications device;
 - D) Psychological assessments and recommendations;
 - E) Prescribed medications, allergies to foods, other medications and substances;
 - F) Physical and dental examinations and medical history;
 - G) Consent to receive emergency medical services; and
 - H) Copies of the authorization for release of information.
- 4) The following shall be entered in the individual's record during the period of service:
 - A) Prior service history;

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- B) Initial assessments and plan and the most recent assessments and plan;
- C) Documentation of approval and their results when special training procedures are used such as time-out, restraint and aversive procedures; and
- D) Chronological progress notes, at least monthly, documenting the individual's involvement in and response to the plan.
- j) Financial and operational requirements
- Programs shall comply with 59 Ill. Adm. Code 103 (Grants).

(Source: Amended 22 Ill. Reg. 7978, effective 8/22/1995)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

- 1) Heading of Part: Payment of Annual Compliance Fees for Pension Funds
- 2) Code Citation: 50 Ill. Adm. Code 4415
- 3) Section Number: Adopted Action:
 4415.10 New Section
 4415.20 New Section
 4415.30 New Section
 4415.40 New Section
 4415.50 New Section
 4415.60 New Section
 4415.70 New Section
 4415.80 New Section
 4415.90 New Section
 4415.Illustration A New Section
 4415.Illustration B New Section
- 4) Statutory Authority: Implementing Sections 1A-107 and 1A-112, and authorized by Section 1A-103 of the Illinois Pension Code [40 ILCS 5/1A-103, 1A-107 and 1A-112] (see P.A. 90-507, effective August 22, 1997).
- 5) Effective Date of Rules: April 27, 1998
- 6) Does this rule contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) Date filed in Agency's Principal Office: April 27, 1998
- 9) Notice of Proposal Published in Illinois Register:
 January 30, 1998, 22 Ill. Reg. 2487
- 10) Has JCAR issued a Statement of Objections to this rule? No
- 11) Difference(s) between proposal and final version:
 a) Section 4415.10 - On line three add "of Insurance" following "Department".
 b) Section 4415.30 - In the definition of "Code" add the following language after the first statutory citation in brackets, "the Deferred Compensation Continuing Appropriation Act [40 ILCS 10], and the State Pension Funds Continuing Appropriation Act [40 ILCS 15]."
 c) Section 4415.30 - In the definition of "State Pension Fund" delete the second "5/" in the first statutory citation in brackets. In the

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second statutory citation in brackets delete "5/14-201" and add "14-152" in lieu thereof. Also in third, fourth and fifth statutory citation in brackets delete the second "5/". And finally in the last statutory citation in brackets change "18-167" to "18-168". d) Section 4415.70(c) - On the second line delete "(1)".

e) Section 4415.70(d) - On the second line delete "(1)". On the next line add "or account transfer" following "transfer". f) Section 4415.80 - In the last sentence delete "Part" following "Code" and change "appeals" to "appeal".

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rule replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of rulemaking: The Department is adopting these new administrative regulations to address the new legislation which requires Illinois' pension funds to pay an annual compliance fee.

The purpose of this Part is to establish a payment mechanism for the annual compliance fee that pension funds are required to pay on June 30 of every year. This administrative regulation will require pension funds to provide certain information to the Department so that an Automated Clearing House Debit transaction between financial institutions can take place for the payment of the annual compliance fee.

16) Information and questions regarding this adopted rule shall be directed to:

James Orr
Department of Insurance
320 West Washington
Springfield Illinois 62767-0001
(217) 785-2162

The full text of the Adopted Rules begins on the next page.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER aaa: PENSIONS

PART 4415

PAYMENT OF ANNUAL COMPLIANCE FEES
FOR PENSION FUNDS

Section	Purpose
4415.10	Applicability
4415.20	Definitions
4415.30	Annual Compliance Fee Amount
4415.40	Notification of Annual Compliance Fee Amount
4415.50	Annual Compliance Fee Payment Date
4415.60	Payment Method
4415.70	Hearing on Annual Compliance Fee Amount
4415.80	Penalties
4415.90	

ILLUSTRATION A Designation for Fund Transfer for State Pension Fund for Payment of Annual Compliance Fee

ILLUSTRATION B Designation for Automated Clearing House Payment of Annual Compliance Fee

AUTHORITY: Implementing Sections 1A-107 and 1A-112, and authorized by Section 1A-103 of the Illinois Pension Code [40 ILCS 5/1A-103, 1A-107 and 1A-112 (see P.A. 90-507, effective August 22, 1997)].

SOURCE: Adopted at 22 Ill. Reg. 7987, effective APR 27 1998.

Section 4415.10 Purpose

This Part sets forth the procedural requirements for the submission of the annual compliance fee by pension funds to the Department of Insurance as required by Section 1A-112 of the Illinois Pension Code [40 ILCS 5/1A-112 (see P.A. 90-507, effective August 22, 1997)]. Additionally, this Part will further the directive of the Legislature given to the Public Pension Division of the Department of Insurance to automate its operations as set forth in Section 1A-107 of the Illinois Pension Code [40 ILCS 5/1A-107 (see P.A. 90-507, effective August 22, 1997)].

Section 4415.20 Applicability

This Part applies to every pension fund that is required to file an annual statement with the Department pursuant to Section 1A-109 of the Code [40 ILCS 5/1A-109 (see P.A. 90-507, effective August 22, 1997)].

Section 4415.30 Definitions

Automated Clearing House, or ACH, means a central distribution and settlement point for the electronic clearing of debts between the financial institutions rather than the physical movement of paper items. The term includes any Federal reserve bank, or an organization established by agreement with the National Automated Clearing House Association which operates as a clearing house for transmitting or receiving entries between banks and/or bank accounts and which authorizes an electronic transfer of funds between such banks or bank's accounts.

ACH Debit means the electronic transfer of funds from the pension fund's account for deposit in the Public Pension Regulation Fund [30 ILCS 105/8(f) (see P.A. 90-507, effective August 22, 1997)].

Annual compliance fee means the fee required to be paid by pension funds pursuant to Section 1A-112 of the Illinois Pension Code [40 ILCS 5/1A-112 (see P.A. 90-507, effective August 22, 1997)].

Basis point means 1/100th of one percent [40 ILCS 5/1A-102 (see P.A. 90-507, effective August 22, 1997)].

Code means the Illinois Pension Code [40 ILCS 5], the Deferred Compensation Continuing Appropriation Act [40 ILCS 10], and the State Pension Funds Continuing Appropriation Act [40 ILCS 15].

Department means the Department of Insurance of the State of Illinois [40 ILCS 5/1A-102 (see P.A. 90-507, effective August 22, 1997)].

Division means the Public Pension Division of the Department of Insurance [40 ILCS 5/1A-102 (see P.A. 90-507, effective August 22, 1997)].

Payment information means the data which the Department requires from a pension fund for the purpose of making an ACH Debit transaction.

Pension Fund means any public pension fund, annuity and benefit fund, or retirement system established under the Illinois Pension Code [40 ILCS 5/1A-102 (see P.A. 90-507, effective August 22, 1997)].

State Pension Fund means any of the following pension funds: General Assembly Retirement System [40 ILCS 5/2-101 through 2-161], State Employees' Retirement System [40 ILCS 5/14-101 through 14-152], State Universities Retirement System [40 ILCS 5/15-101 through 15-197], Teachers' Retirement System of the State of Illinois [40 ILCS 5/16-101 through 16-202], and Judges Retirement System of Illinois [40 ILCS 5/18-101 through 18-168].

Section 4415.40 Annual Compliance Fee Amount

Every pension fund that is required to file an annual statement under Section 1A-109 of the Code shall pay an annual compliance fee pursuant to the following schedule:

- In the case of a pension fund under Article 3 or 4 of the Code, the annual compliance fee is 0.007% (0.7 basis points) of the total assets of the pension fund, as reported in the most current annual statement of the fund, but no more than \$6,000; or*
- In the case of all other pension funds and retirement systems, the annual compliance fee shall be \$6,000 [40 ILCS 5/1A-112(a) (see P.A. 90-507, effective August 22, 1997)].*

Section 4415.50 Notification of Annual Compliance Fee Amount

The Division shall notify by mail each pension fund of the amount of its annual compliance fee, calculated pursuant to Section 4415.40 of this Part, at least 45 days prior to the payment due date as set forth in Section 4415.60 of this Part. Failure of the Division to provide notification to any pension fund pursuant to this Section does not relieve any pension fund from the obligations of Section 1A-112 of the Code.

Section 4415.60 Annual Compliance Fee Payment Date

The annual compliance fee shall be due on June 30 for the following State fiscal year..., except that the fee payable for fiscal year 1998 shall be due as determined by the Division, but no later than June 30, 1998 [40 ILCS 5/1A-112(b) (see P.A. 90-507, effective August 22, 1997)].

Section 4415.70 Payment Method

- Pension funds shall file with the Division at least 30 days prior to the payment due date, as set forth in Section 4415.60 of this Part, the appropriate information of either:

- If a State pension fund, payment information as shown in Illustration A of this Part, which must contain at least the following information:
 - Fund account number from which the annual compliance fee may be withdrawn; and
 - State pension fund name; or
- If not a State pension fund, payment information as shown in Illustration B of this Part, which contain at least the following information:
 - Banking account number from which the annual compliance fee payment may be withdrawn;
 - Routing number for the financial institution in which the bank account is held;
 - The pension fund name; and

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- D) Financial institution's name where the pension fund's account is located.
- b) Either filing made pursuant to subsection (a) of this Section shall be addressed to the Department of Insurance, Pension Division, 320 West Washington, Springfield, Illinois 62767-0001.
- c) Pension funds are not required to file the payment information pursuant to subsection (a) of this Section if the payment information has been previously submitted and such payment information has not changed since the previous submittal.
- d) Based on the payment information provided by the pension funds in subsection (a) of this Section, the Division will initiate an ACH Debit transfer or account transfer on the payment due date, or the first business day thereafter, in an amount equal to the annual compliance fee as calculated pursuant to Section 4415.40 of this Part and as stated in the notification sent pursuant to Section 4415.50 of this Part.

Section 4415.80 Hearing on Annual Compliance Fee Amount

A pension fund that wants to challenge the annual compliance fee as calculated by the Division pursuant to Section 4415.40 of this Part, and as stated in the notification pursuant to Section 4415.50 of this Part, may submit a written request for hearing pursuant to 50 Ill. Adm. Code 2402 within 15 days after receipt of the notification. Such written request shall include the pension fund's reasons for disagreement with the Division's calculation of the annual compliance fee and must include a copy of the Division notification sent pursuant to Section 4415.50 of this Part. The pension fund will not be assessed late fees pursuant to 50 Ill. Adm. Code 4435 and Section 1A-113 of the Code by the Division unless the pension fund loses its appeal.

Section 4415.90 Penalties

Every pension fund required to pay an annual compliance fee pursuant to Section 4415.60 may also be subject to a late penalty fee and a noncompliance penalty as set forth in 50 Ill. Adm. Code Part 4435 if the pension fund fails to comply with Section 4415.70 of this Part.

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Section 4415. ILLUSTRATION A Designation for Fund Transfer for State Pension Fund for Payment of Annual Compliance Fee

Illinois Department of Insurance
Pension Division

Designation for Automated Clearing House
Payment of Annual Compliance Fees

State Pension Fund Name: _____

City: _____ State _____ Zip Code _____

Fund Account Number to be Debited: _____

Fund Account Number to be Credited: _____

Amount of Transfer: _____

Requested Date of Transfer: _____

Statutory Authority: _____

Authorized State Pension Fund Representative: _____

Phone Number: _____

Signed: _____

Dated: _____

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Section 4415. ILLUSTRATION B Designation for Automated Clearing House Payment of Annual Compliance FeesIllinois Department of Insurance
Pension DivisionDesignation for Automated Clearing House
Payment of Annual Compliance Fees

Depository Name: _____

Account Name: _____

City: _____ State _____ Zip Code _____

Routing Transit Number of Depository Above: _____

Account Number to Be Debited: _____

Authorized Pension Representative: _____

Phone Number: _____

Signed: _____

Dated: _____

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: White-Tailed Deer Hunting by Use of Bow and Arrow
- 2) Code Citation: 17 Ill. Adm. Code 670
- 3) Section Numbers: Adopted Action:
670.30 Amendments
670.40 Amendments
670.60 Amendments
- 4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5, and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].
- 5) Effective Date of Rulemaking: April 28, 1998
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Date filed in Agency's Principal Office: April 27, 1998
- 9) Notice of Proposal Published in Illinois Register: February 6, 1998, 22 Ill. Reg. 2678
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:
670.40(a) - changed "rule" to "subsection"
670.60(g) - Apple River - added "Canyon" following "River"
670.60(g) - Beall Woods - added a closing parenthesis following "a.m."
670.60(h) - "Hunting" was changed to "hunting"
670.60(i) - Kankakee River - added a closing parenthesis following "December 24)"
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part is being amended to add

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language clarifying that broadheads may have "expandable" blades, with a minimum of 7/8 inch when fully opened; allow the use of fling-, chert-, or obsidian-napped broadheads; open additional sites to hunting; add language indicating that no hunter may harvest more than 2 antlered deer a year, including by archery, muzzleloader and firearm; and add site-specific information.

16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield, IL 62701-1787
217/782-1809

The full text of the Adopted Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 670

WHITE-TAILED DEER HUNTING BY USE OF BOW AND ARROW

Section
670.10 Statewide Open Seasons and Counties
670.20 Statewide Deer Permit Requirements
670.21 Deer Permit Requirements - Landowner/Tenant Permits
670.30 Statewide Legal Bow and Arrow
670.40 Statewide Deer Hunting Rules
670.50 Rejection of Application/Revocation of Permits
670.55 Reporting Harvest
670.60 Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].

SOURCE: Adopted at 5 Ill. Reg. 8888, effective August 25, 1981; codified at 5 Ill. Reg. 10641; emergency amendment at 5 Ill. Reg. 11402, effective October 14, 1981, for a maximum of 150 days; emergency expired March 13, 1982; amended at 6 Ill. Reg. 10721, effective August 20, 1982; emergency amendment at 6 Ill. Reg. 15581, effective December 14, 1982, for a maximum of 150 days; emergency expired May 13, 1983; amended at 7 Ill. Reg. 10790, effective August 24, 1983; amended at 8 Ill. Reg. 19004, effective September 26, 1984; amended at 9 Ill. Reg. 14317, effective September 9, 1985; amended at 10 Ill. Reg. 16558, effective September 22, 1986; amended at 11 Ill. Reg. 2275, effective January 20, 1987; amended at 12 Ill. Reg. 12042, effective July 11, 1988; amended at 13 Ill. Reg. 12839, effective July 21, 1989; amended at 14 Ill. Reg. 14787, effective September 4, 1990; amended at 14 Ill. Reg. 19859, effective December 3, 1990; amended at 15 Ill. Reg. 10021, effective June 24, 1991; amended at 15 Ill. Reg. 16691, effective October 31, 1991; amended at 16 Ill. Reg. 11116, effective June 30, 1992; amended at 17 Ill. Reg. 286, effective December 28, 1992; amended at 17 Ill. Reg. 13452, effective July 30, 1993; amended at 18 Ill. Reg. 5842, effective April 5, 1994; amended at 19 Ill. Reg. 7560, effective May 26, 1995; amended at 19 Ill. Reg. 15411, effective October 26, 1995; amended at 20 Ill. Reg. 6723, effective May 6, 1996; amended at 21 Ill. Reg. 5561, effective April 19, 1997; amended at 22 Ill. Reg. 7005, effective APR 28 1998.

Section 670.30 Statewide Legal Bow and Arrow

- a) The only legal hunting devices to take, or attempt to take, deer are: a long, recurved, or compound bow with minimum pull of 40 pounds at some point within a 28-inch draw; ~~an arrow with a minimum length of~~

DEPARTMENT OF NATURAL RESOURCES

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~~20-inches-and-with-a-metal-barbless-broadhead-that-cannot-pass-through a-7/8-inch-diameter-hole-to--the-only-legal-arrow.~~ Minimum arrow length is 20 inches, and broadheads must be used. Broadheads may have fixed or expandable blades, but they must be barbless and have a minimum 7/8 inch diameter when fully opened. Broadheads with fixed blades must be metal or flint-, chert-, or obsidian-knapped; broadheads with expandable blades must be metal. All other bows and arrows, including electronic arrow tracking systems, are illegal.

b) A crossbow device is illegal except as provided by Section 2.26 of the Wildlife Code (~~410--Rev--Stat--1991--ch--617--part--2-36~~) [520 ILCS 5/2.26]. It is unlawful to carry any firearm or sidearm while hunting deer with a bow and arrow.

c) Any mechanical device capable of maintaining a drawn or partially drawn position on a bow without the hunter exerting full string tension is illegal, except as noted in subsection (b) above.

(Source: Amended at 22 Ill. Reg. ~~7995~~ effective APR 28 1998)

Section 670.40 Statewide Deer Hunting Rules

a) The bag limit is one deer per legally authorized either-sex, antlered-only or antlerless-only permit. All either-sex permits and antlered-only permits are subject to the following restriction: no hunter, regardless of the quantity or type of permits in his/her possession, may harvest more than 2 antlered deer during a year, including the archery, muzzleloader and firearm seasons. For purposes of this subsection, deer seasons are considered to be in the same year if their opening dates fall within the same 12-month period that begins on July 1 the archery-season. A hunter in possession of an either-sex permit after having harvested 2 antlered deer during a year, as defined above, the archery-season may only use the permit to harvest an antlerless deer. Subject to this restriction, an either-sex permit holder is allowed to take a deer with or without antlers; and an antlered-only permit holder is allowed to take only a deer having at least one antler of a length of 3 or more inches. An antlerless-only permit holder is allowed to take only a deer without antlers or a deer having antlers less than 3 inches long.

b) Recipients of the single either-sex or landowner/tenant Archery Deer Hunting permit shall record their signature on the permit and must carry it on their person while hunting. Holders of combination OTC permits shall record their name and address on the check station tag portions of their permit and must carry it on their person while hunting.

c) The temporary harvest tag shall be attached and properly sealed immediately upon kill and before the deer is moved, transported or field dressed. No person shall leave any deer that has been killed without properly attaching the temporary harvest tag to the deer.

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The temporary harvest tag should be attached around the base of the antler of antlered deer (antlers 3 or more inches in length), and attached to the leg of antlerless deer (<3 inch antler length), or no antlers). A permanent harvest tag will be attached to the leg of the deer upon check out at the check station. If the head/antlers are delivered to a taxidermist for processing, the temporary harvest tag must accompany them and be kept with the head/antlers while at the taxidermist. If the carcass is taken to a meat processor, the permanent harvest tag must remain attached to the leg of the deer until it is processed, then must remain with the processed deer until it is at the legal residence of the person who legally took or possessed the deer. Persons delivering deer/parts of deer to a tanner for processing must supply the tanner with their deer permit number to verify lawful acquisition. In the absence of a permit number, the tanner may rely on the written certification of the person from whom the deer was received that the specimen was legally taken or obtained.

d) Hunters shall not have in their possession, while in the field during archery deer season, any deer permit issued to another person (permits are non-transferable).

e) Permits will not be re-issued in cases involving deer taken which are found to be diseased or spoiled due to previous injury. Legal disposal of unfit deer taken shall be the responsibility of the hunter.

(Source: Amended at 22 Ill. Reg. ~~7995~~ effective APR 28 1998)

Section 670.60 Regulations at Various Department-Owned or -Managed Sites

a) All the regulations in 17 Ill. Adm. Code 510 (General Hunting and Trapping) apply in this Section, unless this Section is more restrictive.

b) Only one tree stand is allowed per deer permit holder. Tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and must be portable. Tree stands must be removed at the end of each day with the exception that tree stands may be left unattended from September 15 through January 31 at those sites listed in this Section that are followed by a (1).

c) Check-in, check-out, and reporting of harvest is required at those sites listed in this Section that are followed by a (2).

d) Where standby hunters are used to fill quotas, a drawing will be held at sites indicated by a (3).

e) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in this Section that are followed by a (4).

f) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in this Section that are followed by a (5).

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9) Statewide regulations shall apply at the following sites:

Argyle Lake State Recreation Area (2)

* Anderson Lake Fish and Wildlife Area (2)

Apple River Canyon State Park (2)

* Banner Marsh Fish and Wildlife Area (2)

Beall Woods State Park (antlerless deer only; hunting hours legal opening until 10:00 a.m.; check out by 11:00 a.m.) (1) (2)

* Big Bend State Fish and Wildlife Area (1) (2)

Big River State Forest (2)

Cache River State Natural Area (1) (2)

Campbell Pond Fish and Wildlife Area (1) (2)

Carlyle Lake Lands and Waters (Corps of Engineers managed lands)

Carlyle Lake Wildlife Management Area (except subimpoundment area is closed seven days prior to and during the regular waterfowl season)

Castle Rock State Park (1) (2)

Crawford County Conservation Area (1) (2)

Cypress Creek National Wildlife Refuge

Cypress Pond State Natural Area (1) (2)

Dixon Springs State Park (1) (2)

Dog Island Wildlife Management Area (1) (2)

* Eldon Hazlet State Park (north of Allen Branch and West of Peppenhorse Branch only) (2)

Ferne Clyffe State Park (1) (2)

Fort de Chartres State Historic Site (1) (2)

Fort Massac State Park (1) (2)

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* Franklin Creek State Park (2)

Giant City State Park (1) (2)

Goose Lake Prairie State Park (tree stands not allowed; "Texas" type tripod stands allowed; antlerless deer only) (2) (3)

Heidecke State Fish and Wildlife Area (2) (3) (5)

Horseshoe Lake Conservation Area - Alexander County (Controlled Goose Hunting Area - open from October 1-31 ~~1-untill-25-days-prior to--the--opening-of-the-Quota-Zone-Goose-Season~~; reopens with the close of the Quota Zone goose season through statewide closing; remainder of the Public Hunting Area open during statewide season) (1) (2)

I-24 Wildlife Management Area (1) (2)

* Jubilee College State Park (2) (4)

Kaskaskia River Fish and Wildlife Area (1) (2), except south of Highway 154 and north of Highway 13)

Kidd Lake State Natural Area (1)

Kinkaid Lake Fish and Wildlife Area (1) (2)

Lowden-Miller State Forest (1) (2) (4)

Mackinaw River Fish and Wildlife Area (1) (2)

Marseilles Wildlife Area (closed Friday, Saturday, and Sunday in October) (1) (2)

Marshall Fish and Wildlife Area (2)

Mississippi Fish and Waterfowl Management Area - Pools 25 and 26

Mississippi River Pool 16 (1)

Mississippi River Pools 17, 18 (1)

Mississippi River Pools 21, 22, 24 (1)

* Mt. Vernon Propagation Center (1) (2)

Oakford Conservation Area

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- Panther Creek Conservation Area (1) (2) (4)
- * Peabody River King State Fish and Wildlife Area (East and North subunits close November 1) (1) (2)
- Pere Marquette State Park (area east of Graham Hollow Road) (1) (2)
- Pyramid State Park (1) (2)
- * Randolph County Conservation Area (1) (2)
- Ray Norbut Conservation Area (2)
- * Red Hills State Park (1) (2)
- Rend Lake State Fish and Wildlife Area
- Rice Lake Fish and Wildlife Area (2)
- Saline County Fish and Wildlife Area (1) (2)
- * Sam Parr State Park (1) (2)
- Sangamon County Conservation Area
- Sanganois State Wildlife Area (1)
- * Shabbona Lake State Park (2)
- Siloam Springs State Park (1) (2) (4)
- * Silver Springs State Park (2)
- Tapley Woods State Natural Area (1) (2)
- Trail of Tears State Forest (1) (2)
- Turkey Bluffs Fish and Wildlife Area (1) (2)
- Union County Conservation Area (Controlled Goose Hunting Area - open from October 1-31 ~~1--until--25--days--prior--to--the opening--of--the--Quota--Zone--goose--season~~; reopens with the close of the Quota Zone goose season through statewide closing) (1) (2)
- Walnut Point Fish and Wildlife Area (1)
- * Washington County Conservation Area (deer bowhunters must wear a

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- cap and upper outer garment with at least 400 square inches of solid blaze orange between 9:00 a.m. and 3:00 p.m. on days when upland game hunting is allowed during the site's controlled hunting season) (1) (2)
- Weinberg-King State Park (2)
- Wildcat Hollow State Forest (1)
- Witkowsky State Wildlife Area (opens October 15)(2)
- h) Statewide regulations shall apply at the following sites except that hunter quotas shall be filled by mail-in drawing:
- Beaver Dam State Park
- Goose-Lake-Prairie-State-Park--(designated-areas-only)
- Horseshoe Lake State Park (Madison County) (hunting in designated areas only; hunting will close at end of regular duck season) (1) (2)
- Pere Marquette State Park (hunting in designated camp areas only; season begins the first weekday after camps close)
- Rend Lake State Fish and Wildlife Area (designated area on refuge only, designated dates between October 1-October 31, 1996)
- Union--County--Conservation--Area--(designated--areas--only)--(last 3-day--(Friday--Saturday--and-Sunday)--weekend--in-October)
- i) State regulations shall apply except that hunters must obtain a free permit from the site office. This permit must be in possession while hunting and must be returned, and harvest reported, to the address indicated on the card before February 15. Failure to return the permit shall result in loss of hunting privileges at that site for the following year.
- Chauncey Marsh State Natural Area (permit obtained at Red Hills State Park headquarters) (1)
- Clinton Lake State Recreation Area ~~(except-inner-Peninsula)~~ (1)
- Coffeen Lake State Fish and Wildlife Area
- Des Plaines Conservation Area (closed to archery deer hunting during the site's upland game hunting season) (2)

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Des Plaines Game Propagation Center (2)

* Eagle Creek State Park (4)

East Conant Field (1) (4)

Fox Ridge State Park (1)

Hamilton County Conservation Area (1)

Harry "Babe" Woodyard State Natural Area (1) (4)

Hidden Springs State Forest (1)

Joliet Army Ammunition Plant (an additional \$15 fee will be assessed upon registration; additionally, wheelchair accessible blinds are available and will be allocated on a first come-first served basis until 12 noon to hunters with a Class P2A disability card) (2)

Kankakee River State Park (deer bowhunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange between 9:00 a.m. and 3:00 p.m. on days when upland game hunting is allowed during the site's controlled hunting season. Additionally, a limited hunting opportunity for persons with disabilities exists at the Davis Creek Bike Trail Area. Disabled hunters, as defined in 520 ILCS 5/3.1(c), may register to hunt at the site office and must sign in and out daily. Disabled hunters are required to hunt with a non-disabled partner who may also hunt from predetermined locations during disabled hunting season (the day after the first firearm deer season as set forth in 17 Ill. Adm. Code 650.10 to December 24))

Kickapoo State Park (1)

~~Little-Vermilion~~ (4)

Maitino State Fish and Wildlife Area (1)

Mermet Lake Conservation Area (1) (2)

Middle Fork Fish and Wildlife Area (1)

* Mississippi Palisades State Park (November 1 through December 31) (closed during the first firearm deer season) (1)

Newton Lake Fish and Wildlife Area (check deer at site office)

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* Pekin Lake Fish and Wildlife Area (1)

Ramsey Lake State Park (1)

Sam Dale Lake Conservation Area (1)

Sand Ridge State Forest (1)

* Sangchris Lake State Park (an antlerless deer must be taken before an antlered deer is harvested) (1) (5)

Sato Field (1) (4)

Shelbyville Wildlife Management Area (1)

Site M (1) (4)

Snake Den Hollow Fish and Wildlife Area (October 1 through start of the central zone goose season)

* Spring Lake Fish and Wildlife Area (1)

Stephen A. Forbes State Park (1)

Ten Mile Creek Fish and Wildlife Area (areas designated as refuge are closed to all access during Canada goose season only) (1); Belle Rive Unit only (4)

~~Wittowsky-State-Wildlife-Area~~ (1)

j) Statewide regulations shall apply except that no hunting is permitted Wednesday through Sunday of the site's permit pheasant season.

Chain O'Lakes State Park (season opens Monday prior to opening of permit pheasant hunting season and closes Tuesday following the close of the permit pheasant hunting season; Tuesday hunting hours close at 2:00 p.m. and hunters must check out by 3:00 p.m. Season reopens on December 26 till close of regular season)

Green River State Wildlife Area (1) (2)

Iroquois County Conservation Area (2)

Johnson Sauk Trail State Park

Moraine View State Park (1)

Wayne Fitzgerald State Recreation Area (no bowhunting during

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controlled hunts as posted at the site) (1) (2)

k) Statewide regulations shall apply at the following sites--except--that
hunter quotes are filled by mail in drawing--Only antlerless deer may
be taken--first 50 hunters to harvest a doe will be granted automatic
selection for first 50 openings in the next year's hunt.

Clinton--lake--(inner-Peninsula-and-Mascoutin-areas-only)-(1)-(2)
(3)

(Source: Amended at 22 Ill. Reg. 1000, effective
April 23, 1998)

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1) Heading of the Part: White-Tailed Deer Hunting by Use of Firearms

2) Code Citation: 17 Ill. Adm. Code 650

3) Section Numbers: Adopted Action:
650.10 Amendments
650.20 Amendments
650.21 Amendments
650.22 Amendments
650.23 Amendments
650.40 Amendments
650.50 Amendments
650.60 Amendments
650.65 Amendments
650.67 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4,
1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4,
1.13, 2.24, 2.25, 2.26 and 3.36].

5) Effective Date of Rulemaking: 4/28/98

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date filed in Agency's Principal Office: April 27, 1998

9) Notice of Proposal Published in Illinois Register: February 6, 1998, 22
Ill. Reg. 2690

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version:

650.20(a) - removed ".00" following dollar amounts

650.20(b) - changed "Drawings" to "Drawing" at the end of the subsection

650.20(e) - removed ".00" following dollar amounts

650.20(f) - removed ".00" following dollar amounts

650.20(h) - changed "one day" to "each day"; and added "the" prior to
"working days"

650.20 - subsections previously labeled (j) through (m) were relabeled (i)
through (l)

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- 650.20(i) - deleted "(1)" and "(2)"
- 650.21(c) - deleted ".00" following dollar amounts
- 650.21(d) - deleted ".00" following dollar amounts; and placed "shall be valid on all farmlands which the person to whom it is issued owns, leases or rents" in italics
- 650.21(g)(4) and (h)(2) - removed revisions - language will not be amended
- 650.21(l) - deleted ".00" following dollar amount
- 650.40(a) - changed "rule" to "Section"; and deleted semi- colon following "antlers"
- 650.60(f) - changed "Only" to "only"
- 650.60(g) - deleted ".00" following dollar amount
- 650.60(g) - Castle Rock - deleted "; antlerless deer only"
- 650.60(g) - Deleted all language in subsection labeled Joliet Army Ammunition Plant
- 650.60(g) - Lake Le Aqua Na - changed to read "Lake Le-Aqua- Na"
- 650.65 - Lake Le Aqua Na - changed to read "Lake Le-Aqua-Na"

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Amendments include updating application procedures including removing language stating only one choice of hunt area or county will be considered and adding language allowing hunters to specify a second choice of hunt county or special site on their application; changing the First Random Daily Drawing period for permits to a single lottery drawing; allowing applicants during the second drawing period to apply for permits as a group (maximum of 6 hunters/groups); changing the first day of the September Random Daily Drawing period (the third application period) from September 1 to the first working day after September 14; adding language indicating that hunters, regardless of the quantity or type of permit in their possession, may not harvest more than 2 antlered deer during a year, including the archery, muzzleloader, and

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firearm seasons; adding language indicating that either-sex permit holders are allowed to take a deer with or without antlers, and an antlered-only permit holder is allowed to take only a deer having at least one antler of a length of 3 or more inches; adding and deleting sites open to hunting; and changing deer hunting programs at several sites.

16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield, IL 62701-1787
217/782-1809

The full text of the Adopted Amendments begins on the next page:

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TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 650

WHITE-TAILED DEER HUNTING BY USE OF FIREARMS

Section

- 650.20 Statewide Deer Permit Requirements
650.21 Deer Permit Requirements - Landowner/Tenant Permits
650.22 Deer Permit Requirements - Special Hunts
650.23 Deer Permit Requirements - Group Hunt
650.30 Statewide Firearms Requirements
650.40 Statewide Deer Hunting Rules
650.50 Rejection of Application/Revocation of Permits
650.60 Regulations at Various Department-Owned or -Managed Sites
650.65 Youth Hunt
650.67 Special Hunts for Disabled Hunters
650.70 Special Extended Season Firearm Deer Hunt (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].

SOURCE: Adopted at 5 Ill. Reg. 9771, effective September 17, 1981; codified at 5 Ill. Reg. 10640; amended at 6 Ill. Reg. 10730, effective August 20, 1982; amended at 7 Ill. Reg. 10798, effective August 24, 1983; amended at 8 Ill. Reg. 21602, effective October 23, 1984; amended at 9 Ill. Reg. 16213, effective October 10, 1985; emergency amendment at 9 Ill. Reg. 20922, effective December 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4223, effective February 25, 1986; amended at 10 Ill. Reg. 16665, effective September 22, 1986; amended at 11 Ill. Reg. 3044, effective February 3, 1987; amended at 11 Ill. Reg. 9564, effective May 5, 1987; amended at 12 Ill. Reg. 8003, effective April 25, 1988; amended at 12 Ill. Reg. 12055, effective July 11, 1988; amended at 13 Ill. Reg. 12853, effective July 21, 1989; amended at 14 Ill. Reg. 12430, effective July 20, 1990; amended at 14 Ill. Reg. 19869, effective December 3, 1990; amended at 15 Ill. Reg. 10038, effective June 24, 1991; emergency amendment at 15 Ill. Reg. 15790, effective October 22, 1991, for a maximum of 150 days; emergency expired March 21, 1992; amended at 16 Ill. Reg. 11131, effective June 30, 1992; amended at 17 Ill. Reg. 13468, effective July 30, 1993; amended at 18 Ill. Reg. 5859, effective April 5, 1994; amended at 18 Ill. Reg. 13431, effective August 23, 1994; amended at 19 Ill. Reg. 6477, effective April 28, 1995; amended at 20 Ill. Reg. 7515, effective May 20, 1996; amended at 21 Ill. Reg. 5572, effective April 19, 1997; amended at 21 Ill. Reg. 9116, effective June 26, 1997; amended at 22 Ill. Reg. 8007, effective

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Section 650.10 Statewide Season and Permit Quotas

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- a) Season: 12:01 a.m. on Friday of the 3-day (Friday, Saturday and Sunday) weekend immediately before Thanksgiving to 6:00 p.m. on Sunday of the 3-day weekend before Thanksgiving, and 12:01 a.m. on Thursday of the first 4-day (Thursday, Friday, Saturday and Sunday) weekend following Thanksgiving to 6:00 p.m. on Sunday of the first 4-day weekend following Thanksgiving. Full season permits shall be for all days. Second season permits shall be valid for the last four days of the season only. Hunting hours are one-half hour before sunrise to sunset.
- b) Permit quotas shall be set by the Department of Natural Resources (Department) on a county or special hunt area basis. Cook, DuPage, Lake and Kane counties are closed to firearm deer hunting.

(Source: Amended at 22 Ill. Reg. 8007, effective

APR 28 1998)

Section 650.20 Statewide Deer Permit Requirements

- a) Illinois resident hunters must have a current, valid "Firearm Deer Permit" (\$15-00). Deer permit fees for non-resident firearm deer hunters shall be \$100-00 for each either-sex firearm permit and \$25-00 for each antlerless-only permit. No individual may apply for or receive more than 2 either-sex permits (including landowner-either-sex firearm permits, full-season-either-sex firearm permits, second-season either-sex firearm permits, and either-sex muzzleloading permits) for use during all gun deer seasons (both firearm and muzzleloading). A permit is issued for one county or special hunt area and is valid only in the county or special hunt area stated on the permit. Only applicants who receive an either-sex permit in a county or special hunt area are eligible for an antlerless-only permit for that county or special hunt area, except in counties that are specially designated for more intensive removal of does in a given year. Any such these counties will be identified prior to the Random Daily Drawing Period which begins in September second-random-daily-drawing, and a limited number of antlerless-only permits will be made available regardless of whether applicants already possess an either-sex permit. For permit applications and other information write to:

Department of Natural Resources
(Firearm or Landowner/Tenant or Non-Resident)
Deer Permit Office
524 South Second Street, Room 210
P.O. Box 19227
Springfield, Illinois 62794-9227

- b) Applications from Illinois residents for participation in the First Lottery Drawing will be accepted through the last weekday in April of the current year. Nonresidents may not apply to participate in the First Lottery Drawing. Applications received after the last weekday in April will not be included in this the lottery. Permits will be

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allocated in a computerized random drawing in which only one choice of hunt area or county will be considered. Permits will be issued as either sex, antlerless only, or antlered only. A maximum of one either-sex and one antlerless-only permit shall be issued per person. Applicants for free or paid landowner/tenant permits are not eligible to participate in the First or Second Lottery Drawings lottery or the first-random-daily-drawing-period. Landowners who receive permits in the First or Second Lottery Drawing lottery or first-random-daily drawing-period are not eligible for landowner permits.

c) Applicants must complete all portions of the current year permit application form. Incomplete or incorrect applications will be returned along with the applicant's permit fee for correction or completion if received in the Permit Office prior to the last weekday in April of the current year.

d) Applicants must check the second-season box if they agree to accept a second-season permit upon being rejected for a full-season permit.

e) Applicants must check the antlerless-only box and enclose an additional \$15-00 (\$25-00 for non-residents) if they want to apply for an additional antlerless-only permit. Antlerless-only permits will be issued until the antlerless-only quota is filled for a given county or special hunt area.

f) Permits for counties and special hunt areas with unfilled quotas after the First Lottery Drawing lottery will be allocated in a Second Lottery Drawing Random-Bait-Drawing-procedure. This drawing is open only to nonresident applicants and to Illinois residents who were not previously issued firearm or muzzleloader permits for the current hunting season. Applications for the Second Lottery Drawing will be accepted through Random-Bait-Drawing-will-be-accepted-beginning August 1 and ending on the tenth weekday in August of the current year. Applicants may also apply for remaining antlerless-only permits by checking the antlerless-only box and enclosing an additional \$15-00 for residents and \$25 for nonresidents. Applications received prior to August 1 will be processed in the first-daily-drawing. A list of unfilled counties and special hunt areas will be announced upon becoming available after the First Lottery Drawing prior to the August application dates. Applicants must apply on a current year Firearm Deer Permit application form. All applications for the Random-Bait-Drawing-will-be-processed-individually--this-application-period-is open-only-to-those-applicants-who-were-not-previously-issued-firearm permits-for-the-current-hunting-season. A maximum of one either-sex and one antlerless-only permit shall be issued per person.

g) In-person-and-mail-in-applications-will-receive-equal-treatment-in-the drawings--for-the-Random-Bait-Drawing-applications-received-one-day will-not-be-processed-until-all-applications-received-for-that-day-are mixed--all-applications-received-on-a-specific-day-will-be-processed before-processing-applications-received-for-a-subsequent-day. Applicants must complete all portions of the current-year-permit application-form--incomplete-or-incorrect-applications-will-be

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returned-along-with-the-applicant's-permit-fee-for-correction-or completion-if-received-in-this-office-prior-to-the-first-weekday-in April-of-the-current-year. No more than 6 single applications per envelope will be accepted during the application periods for the First and Second Lottery Drawings. Each applicant must submit a separate personal check or money order. Separate envelopes must be used to send permit applications to the Deer Permit Office for regular firearm, muzzleloading rifle, handgun, archery, and free or paid landowner/tenant permits.

h) Applications-for-non-resident-firearm-permits-will-be-accepted beginning-August-1-and-will-be-included-with-the-residents-in-the Random-Bait-Drawing-Applications-received-prior-to-August-1-will-be processed-in-the-first-daily-drawing.

h) There will be an application period which starts the first working day after September 14 September 1 and ends the fifth weekday in November, during which anyone (regardless of any other permit they may have, subject to the restriction in subsection (a)) can apply for firearm deer permits left over from the county and special hunt area quotas. During this application period, the permits shall be issued in a random daily drawing. Applications received each day will not be processed until all applications received for that day are mixed. All applications received on a specific day will be processed before processing applications received for a subsequent day. All applications for the Random Daily Drawing will be processed individually (i.e., no group applications will be processed). Applicants can apply for one or more permits during this application period. Full-season antlerless-only permits shall only be issued to successful applicants that have full-season either-sex permits in the county applied for. Second-season antlerless-only permits shall be issued to successful applicants that have either full-season or second-season either-sex permits in the county applied for. Applicants submitting applications within the 20 working days prior to the start of the first season after-October-24 cannot be guaranteed a permit by the start of the first deer hunting season. Applicants must print "September Drawing - Multiple Permits" September-1-Multiple Permits on the outside of the envelope and mark the "September Drawing - Multiple Permits" September-1-Multiple-Permits box on the firearm deer permit application.

i) Hunter preference in obtaining a permit during the First Lottery Drawing will be given to individuals that applied for an either-sex permit in the previous year's First Lottery Drawing who were rejected because the quota was depleted in their county choice(s) to unsuccessful lottery applicants from the previous year-who-did-not receive-an-either-sex-permit-due-to-the-counties-of-their-choice-being full or to applicants that received, in the previous year, a second season either-sex permit in the First Lottery Drawing lottery only. In order to be eligible for lottery preference during the First Lottery Drawing, the second season box must have been checked on the

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application form of unsuccessful applicants when they were rejected. Preference will not be granted to applicants who received a full-season either-sex permit but who did not receive an antlerless-only permit. Persons with lottery preference will have first chance at receiving available either-sex permits. The following criteria must be met to obtain a preference in the First Lottery Drawing ~~Permit-Lottery~~:

- 1) The applicant must apply using the official Department application.
- 2) The applicant must be a resident of the State, be eligible to receive a Firearm Deer Permit, and not had deer hunting privileges revoked pursuant to Section 650.50.
- 3) The applicant must apply for the same county choice(s) which he/she listed on the previous year's application. Preference will not be granted for special hunt areas.
- 1) ~~k~~ Applications may be accepted at the counter window of the permit office; however, permits will be mailed. In-person and mail-in applications will receive equal treatment in the drawings.
- 2) ~~k~~ Permits are not transferable. Refunds will not be granted, unless the Department of Natural Resources has erroneously issued the permit after the quota has been depleted or where the applicant was unsuccessful in obtaining a permit.
- 1) ~~m~~ A \$3-00 service fee will be charged for replacement permits issued by the Department, except when permits are lost in the mail, then there will be no charge. Monies derived from this source will be deposited in the Wildlife and Fish Fund.

(Source: Amended at 22 Ill. Reg. 8007 ~~8~~, effective APR 23 1998)

Section 650.21 Deer Permit Requirements - Landowner/Tenant Permits

- a) The immediate family of a landowner or tenant is defined as, and limited to, the spouse, children, or parents permanently residing on the same property as the landowner or tenant.
- b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit.
- c) Resident and nonresident Illinois landowners who own 40 acres or more of land, and resident tenants leasing or renting 40 acres or more of commercial agricultural lands may apply for a county-wide paid landowner either-sex permit to hunt in the county where the land is located. Members of the immediate family of the landowner or tenant are also eligible to apply for a county-wide paid landowner Firearm Deer permit. Incomplete applications will be returned. The fee for a county-wide either-sex paid landowner deer permit shall be \$15-00 for residents and \$100-00 for nonresidents. These applications will

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not be subject to the public lottery process ~~drawing--or--the--Random-Baity-Brawing~~.

- d) Resident Illinois landowners who own 40 acres or more of land and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family, may apply for a free either-sex permit for their property only in counties open for firearm deer hunting. Recipients of the free either-sex permit will also be given a free antlerless-only permit for their property only. Nonresident Illinois landowners (of 40 acres or more land) are also eligible to apply for one either-sex permit and one antlerless-only permit for their property only. The fee to nonresident Illinois landowners (of 40 acres or more land) for permits for their property only shall be \$50-00 for the either-sex permit and \$25-00 for the antlerless only permit. These applications will not be subject to the public lottery process ~~permit-lottery--described--above or--the--Random-Baity-Brawing~~. This deer hunting permit shall be valid on all farmlands which the person to whom it is issued owns, leases or rents [525 ILCS 5/2.26] in counties open for firearm deer hunting.
- e) Date of acceptance of landowner/tenant property-only permit applications will be publicly announced. Applications for county-wide paid permits must be submitted by the last weekday in April.
- f) Landowners and resident tenants are not required to participate in the public drawing for permits.
- g) Proof of ownership for all landowner or tenant applications must be provided by one of the following methods:
 - 1) Submittal of a copy of property deed;
 - 2) Submittal of a copy of contract for deed;
 - 3) Submittal of a copy of a tax statement for the property (upon which the landowner's name appears as landowner, or person signing application appears as landowner);
 - 4) Submittal of a copy of a Farm Service Agency 156EZ form; or
 - 5) Submittal of a copy of a trust agreement which must indicate that the trust owns at least 40 acres and the applicant is a current income beneficiary of the trust.
- h) Tenant permit applicants are required to submit, in addition to the landowner certification and proof of ownership, a copy of one of the following:
 - 1) A copy of a lease or a rental agreement, file stamped as recorded by the County Clerk, covering the current year; or
 - 2) A copy of a Farm Service Agency 156EZ form.
- i) A hunting rights lease, or other non-agricultural lease, is not valid as a basis for obtaining a landowner or tenant permit.
- j) County-wide permit holders are authorized to firearm deer hunt only in the county identified on the deer permit and only on property where permission to hunt has been obtained from the property owner.
- k) If the property is owned or rented by more than one person: Only one landowner (and his immediate family) or one tenant (and his immediate family) shall be issued a permit on a first-come, first-serve basis

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for every 40 acres of owned or rented land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate family may receive deer permits.

- 1) Shareholders of corporations owning 40 or more acres of land in a county may apply for one either-sex permit to hunt the corporation lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county shall be issued based on ownership of lands by corporations. Lands leased to corporations shall not be considered as a basis for a permit for the shareholders of the lessee. Lands held in trust by corporations shall not be considered as a basis for a permit by the shareholders of the trustee. If application is made for a permit based upon lands owned by the corporation, a duly authorized officer of the corporation must sign a notarized statement authorizing the applicant to hunt on the corporate lands for which a permit is being requested. This statement must identify the applicant as a shareholder, identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation lands. This document must be attached to the application upon submittal to the Permit Office. The shareholder either-sex permit shall be free to resident shareholders, and the cost to nonresident shareholders shall be \$50.00. An antlerless-only shareholder permit (free to resident shareholders; \$25 to nonresident shareholders) will be made available if in the best interest of managing the deer herd.

- m) Landowners or tenants that apply for or receive Landowner/Tenant Firearm Deer Permits may not apply for additional permits in the First or Second Lottery Drawing ~~lottery-or-the-first-Random-Daily-Drawing~~.

(Source: Amended at 22 Ill. Reg. 8007 effective APR 28 1998)

Section 650.22 Deer Permit Requirements - Special Hunts

- a) Special hunt sites are defined as those sites which are owned or controlled by agencies/entities other than the Department, or sites at which the Department only controls a portion of the property designated for deer hunting, which issue deer hunting permits through the statewide lottery process. The Permit Office issues deer hunting permits through a computerized drawing for sites listed below, in addition to the Department-owned or -managed sites listed in Section 650.60(h). The permit preference system does not apply to special hunt areas or to State sites allocating permits in the lottery.

- 1) CILCO Duck Creek (Fulton County, first season only)
- 2) CILCO Duck Creek Handicapped (Fulton County, first season only)
- 3) Crab Orchard National Wildlife Refuge (the first and second season are considered separate hunt choices, and permit applicants must specify which season they are applying for in the County Choice or Hunt Area field of the application. Permits may

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be issued as antlerless-only without the normal bonus requirement. Standby hunting will be allowed if additional permits are available at the site)

- 4) Crab Orchard National Wildlife Refuge - Disabled Hunt (first season only)
- 5) Joliet Army Ammunition Plant (Will County)
- 6) Joliet Army Training Area (Will County)
- 7) Lake Shelbyville Project Lands (Moultrie County)
- 8) Lake Shelbyville Project Lands except Wolf Creek State Park (Shelby County)
- 9) Savanna Army Depot (Jo Daviess County)
- b) Each applicant must enclose a separate fee (check or money order) payable to the Department of Natural Resources, or the application will be returned. Applicants should not send cash with their applications. The Department will not be responsible for cash sent through the mail.

(Source: Amended at 22 Ill. Reg. 8007 effective APR 28 1998)

Section 650.23 Deer Permit Requirements - Group Hunt

- a) Up to six individuals may apply to hunt as a group during the First and Second Lottery Drawings. If applicants are applying in a group, all applications for the group must be sent to the Department in the same envelope. All applications for the group will be processed together only if they are received in the same envelope. Any applications indicating participation in a group that are not received in the same envelope will be processed separately.

- b) Each individual must sign his or her own application.
- c) Applicant must enclose a separate check or money order for the appropriate amount for each application or the applications will be returned.

- d) In order to receive preference for the group, all members must have preference for the same county choice. If any member does not have preference for the group's county choice, the entire group will not receive preference.

- e) Applicants applying as a group will be rejected if they do not list the same county or special hunt area choice, complete the group leader information listing the identical group leader, and complete the second-season option box identically.

(Source: Amended at 22 Ill. Reg. 8007 effective APR 28 1998)

Section 650.40 Statewide Deer Hunting Rules

- a) The bag limit is one deer per legally authorized eligible,

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antlered-only or antlerless-only permit. All either-sex permits and antlered-only permits are subject to the following restriction: no hunter, regardless of the quantity or type of permits in his/her possession, may harvest more than 2 antlered deer during a year, including the archery, muzzleloader, and firearm seasons. For purposes of this Section, deer seasons are considered to be in the same year if their opening dates fall within the same 12-month period that begins on July 1. A hunter in possession of an either-sex permit after having harvested 2 antlered deer during a year, as defined above, may only use the permit to harvest an antlerless deer. Subject to this restriction, an either-sex permit holder is allowed to take a deer with or without antlers and an antlered-only permit holder is allowed to take only a deer having at least one antler of a length of 3 or more inches. ~~An either-sex permit holder is allowed to take a deer with or without antlers.~~ ~~An antlered-only permit holder is allowed to take only a deer having at least one antler of a length of 3 or more inches.~~ An antlerless only permit holder is allowed to take only a deer without antlers or a deer having antlers less than 3 inches long. Recipients of the Firearm Deer Hunting Permit shall record their signature on the permit and must carry it on their person while hunting.

c) The temporary harvest tag shall be attached and properly sealed immediately upon kill and before the deer is moved, transported or field dressed. No person shall leave any deer that has been killed without properly attaching the temporary harvest tag to the deer. The temporary harvest tag should be attached around the base of the antler of antlered deer (antlers 3 or more inches in length), and attached to the leg of antlerless deer (<3 inch antler length, or no antlers). If the head/antlers are delivered to a taxidermist for processing, the temporary harvest tag must accompany them and be kept with the head/antlers while at the taxidermist. If the carcass is taken to a meat processor, the permanent harvest tag must remain attached to the leg of the deer until it is processed, then must remain with the processed deer until it is at the legal residence of the person who legally took or possessed the deer. Deer shall be checked in by the hunter in person by 8:00 p.m., the same day it is killed; either at the county check station or the nearest check station to the kill site. Failure to follow this Section constitutes illegal possession of deer. Site specific reporting requirements must be followed in addition to this Section. Persons delivering deer/parts of deer to a tanner for processing must supply the tanner with their deer permit number to verify lawful acquisition. In the absence of a permit number, the tanner may rely on the written certification of the person from whom the deer was received that the specimen was legally taken or obtained.

d) Hunters shall not have in their possession, while in the field during firearm deer season, any deer permit issued to another person (permits are non-transferrable).

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e) permits will not be re-issued in cases involving deer taken which are found to be diseased or spoiled due to previous injury. Legal disposal of unfit deer taken shall be the responsibility of the hunter.

(Source: Amended at 22 Ill. Reg. ~~8007~~ effective APR 28 1998)

Section 650.50 Rejection of Application/Revocation of Permits

a) In the event that an applicant is in violation of one of the following subsections, the application shall be held in suspension, and the application fees shall be deposited, pending a determination by the permit office of whether or not the violation was knowing. If the permit office determines the violation was knowing, the application shall be rejected and the fee shall be retained by Natural Resources. The applicant may request a hearing on this decision pursuant to 17 Ill. Adm. Code 2530. Should it be determined that the violation was without the knowledge of the applicant, the permit office will process only the number of applications allowed by administrative rule with additional applications rejected and fees returned.

1) Using hunting rights lease or mineral rights lease or other lease for land which does not evidence a genuine farm tenancy to obtain a firearm deer permit.

2) Submitting more applications in the same name or by the same person for Firearm Deer Permits than the number of legally authorized permits.

3) Applying prior to the Second Lottery Drawing September--1 for a firearm deer permit if the applicant has already been issued a muzzleloading rifle deer permit, a free landowner/tenant permit, or a paid landowner permit ~~or a free/paid-landowner permit.~~

4) Providing false and/or deceptive information on the deer permit application form.

5) Submitting an application when the applicant has a license or permit currently revoked pursuant to Section 3.36 of the Wildlife Code [520 ILCS 5/3.36].

b) Any violation of the Wildlife Code [520 ILCS 5] or administrative rules of the Department (17 Ill. Adm. Code, Chapter 1), in addition to other penalties, may result in revocation of deer hunting permits as per 17 Ill. Adm. Code 2530.

(Source: Amended at 22 Ill. Reg. ~~8007~~ effective APR 28 1998)

Section 650.60 Regulations at Various Department-Owned or -Managed Sites

a) All the regulations in 17 Ill. Adm. Code 510 - General Hunting and Trapping apply in this Section, unless this Section is more

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restrictive.

- b) Only one tree stand is allowed per deer permit holder. These tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and must be portable. Tree stands must be removed at the end of each day with the exception that they may be left unattended from September 15 - January 31 at those sites listed in this Section that are followed by a (1).
- c) Check-in, check-out, and reporting of harvest is required at those sites listed in this Section that are followed by a (2).
- d) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in this Section that are followed by a (3).
- e) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in this Section that are followed by a (4).
- f) Statewide regulations shall apply at the following sites:

Cache River State Natural Area (1) (2)

Campbell Pond (1) (2)

Carlisle Lake Lands and Waters (Corps of Engineers managed lands)

Carlisle Lake Wildlife Management Area (except subimpoundment area)

Chauncey Marsh (1) (2)

Crawford County Conservation Area (1) (2)

Cypress Creek National Wildlife Refuge

Cypress Pond State Natural Area (1) (2)

Dog Island Wildlife Management Area (1) (2)

Ferne Clyffe State Park (1) (2)

Fort de Chartres State Historic Site (muzzleloading rifles only) (1) (2)

Giant City State Park (1) (2)

Goose Lake--Prairie--State--Park--(site--permit--required--hunter quotas--shall--be--filled--by--mail--in--drawing--requirements--for drawing--shall--be--publicly--announced--hunters--who--have--harvested--a deer--will--be--allowed--to--purchase--an--additional--site--specific antlerless--permit--daily--stand-by--drawing--held--at--the--site--at--5

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a-m--each-day--(2)

Hamilton County Conservation Area (1) (2)

Horseshoe Lake Conservation Area - Alexander County (all portions of the Public Hunting Area except the Controlled Goose Hunting Area) (1) (2)

I-24 Wildlife Management Area (1) (2)

Kaskaskia River Fish and Wildlife Area (Doza Creek Waterfowl Management Area closed during duck season) (2, except south of Highway 154 and north of Highway 13)

Kidd--Lake--State--Natural--Area--(1)

Kinkaid Lake Fish and Wildlife Area (1) (2)

Mermet Lake Conservation Area (1) (2)

Mississippi Fish and Waterfowl Management Area - Pools 25 and 26

Mississippi River Pool 16 (1)

Mississippi River Pools 17, 18 (1)

Mississippi River Pools 21, 22, 24 (1)

Newton Lake Fish and Wildlife Area (2)

Oakford Conservation Area (1)

Pere Marquette State Park (hunting in designated areas only) (2)

Pyramid--State--Park--(1)--(2)

Rend Lake State Fish and Wildlife Area

Saline County Fish and Wildlife Area (1) (2)

Sangamon County Conservation Area

Sanganois State Wildlife Area (1)

Southern--Illinois--University--Indian--Creek--Management--Unit--(1) (2)

Ten Mile Creek Fish and Wildlife Area (1); Belle Rive Unit only

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(3)

Trail of Tears State Forest (1) (2)

Turkey Bluffs Fish and Wildlife Area (1) (2)

Union County Conservation Area (Firing Line Unit only) (1) (2)

Weinberg-King State Park (2)

Wildcat Hollow State Forest (1)

g) Statewide regulations shall apply at the following sites by special permit allocated through the regular statewide drawing. Season dates that differ from the statewide dates are in parentheses. Sites that offer standby hunting are followed by a (5). At sites offering standby hunting, permit holders must register at the check station by 5:00 a.m. each day of the hunt. Unvalidated permits are void after 5:00 a.m. Vacancies each day will be filled by a drawing held at 5:00 a.m. Vacancies may be filled by any person holding a valid hunting license, Habitat Stamp, and Firearm Owner Identification Card, unless exempt. Standby hunters will be issued a one-day site-specific deer permit at the check station, and charged a permit fee of \$5-00. All hunters must check out and report harvest.

Apple River Canyon State Park (2)

Argyle Lake Recreation Area (5)

Beall Woods State Park (first or second season only; antlerless deer only) (1) (2) (5)

Big River State Forest (5)

Castle Rock State Park (first or second season only) (1) (2) (5)

Castle-Rock-State-Park-(second-season-only)-(1)-(2)-(5)

Coffeen Lake State Fish and Wildlife Area (first season only)

Coffeen Lake State Fish and Wildlife Area (second season only)

Des Plaines Conservation Area (first season only) (2) (5)

East Conant Field (1) (3)

Fort Massac State Park (second season only) (antlerless deer only) (2)

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Fox Ridge State Park

Goose Lake Prairie State Park (tree stands not allowed; first or second season only; antlerless deer only; "Texas" style tripod stands allowed) (2) (5)

Green River State Wildlife Area (first season only) (1) (2) (5)

Harry "Babe" Woodyard State Natural Area (2) (3)

Heidecke State Fish and Wildlife Area (2) (4) (5)

Hidden Springs State Forest

Horseshoe Lake Conservation Area - Alexander County (Refuge and Public-Hunting-Area, last Saturday in October)

Iroquois County Conservation Area/Hooper Branch (first season only) (2) (5)

Iroquois County Conservation Area - Hooper Branch only (second season only) (2) (5)

Joliet-Army-Ammunition-Plant--ten--additional--\$15-fee-will-be assessed-upon-registration--additionally--wheelchair--accessible blinds--are-available-and-will-be-allocated-on-a-first-come-first-served-basis-until-12-noon-to-hunters-with-a-Class-B2A-disability card)-(2)-(3)-(5)

Kickapoo State Park (2) (5)

Lake Le-Aqua-Na State Park (second season only, antlerless deer only) (5)

Little-Vermillion-River-State-Natural-Area-(2)-(3)

Lowden-Miller State Forest (first season only) (1) (2) (3) (5)

Lowden-Miller State Forest (second season only) (1) (2) (3) (5)

Mackinaw River Fish and Wildlife Area (1) (2) (5)

Marseilles Wildlife Area (1) (2) (5)

Marshall Fish and Wildlife Area (2) (5)

Middle Fork Fish and Wildlife Area (2) (5)

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Mississippi Palisades State Park (first season only)

Morrison Rockwood State Park (first season only) (5)

Panther Creek Conservation Area (1) (2) (3)

Pyramid State Park (1) (2)

Ray Norbut Conservation Area (2) (5)

Sand Ridge State Forest (1) (2)

Sato Field (1) (3)

Siloam Springs State Park (2) (3)

Site M (1) (2) (3)

Starved Rock/Matthiessen State Park (first or second season only; antlerless deer only) (2) (5)

Tapley Woods State Natural Area

Union County Conservation Area (Refuge only, last Saturday in October)

Witkowski Wildlife Area

Wolf Creek State Park (3)

(Source: Amended at 22 Ill. Reg. 80075, effective APR 28 1998)

Section 650.65 Youth Hunt

Statewide regulations shall apply at the following sites by special permit allocated through the regular statewide drawing. The youth hunting date will be the first three days of the statewide firearm deer season. Youth hunters must have a special permit allocated by mail in drawing. Only paid firearm permit holders who possess a valid Firearm Deer Permit for the county in which the site is located are eligible. Permits will be valid for the three-day season. Any duplicate applications will be denied and those persons shall forfeit their right to a permit. Shooting is allowed from elevated tree stands only. Applicants must be between the ages of 10-15.

Crab Orchard National Wildlife Refuge (second season only) (1) (2)

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Fort Massac State Park (first season only) (1) (2)

Lake Le-Aqua-Na State Park (first season only) (1) (2)

(Source: Amended at 22 Ill. Reg. 80075, effective APR 28 1998)

Section 650.67 Special Hunts for Disabled Hunters

Statewide regulations shall apply; season dates shall be the Thursday, Friday, and Saturday immediately prior to the first firearm deer season, and the Thursday, Friday, and Saturday immediately following the second weekend of the regular firearm season. Permit applications may be obtained from the appropriate Illinois Department of Natural Resources regional office, and completed applications must be returned to that office by the third Friday in October. Disabled hunters must possess a Class P2A disability card in order to be eligible for the drawing. All participating hunters must show proof of passing the Illinois Hunter Safety Course or an equivalent State program for nonresidents. Additional regulations will be publicly announced.

Clinton Lake State Recreation Area (Mascoutin State Park) (2) (5)

Rock Cut State Park (2) (5)

(Source: Amended at 22 Ill. Reg. 80075, effective APR 28 1998)

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1) Heading of the Part: White-Tailed Deer Hunting By Use of Muzzleloading Rifles

2) Code Citation: 17 Ill. Adm. Code 660

3) Section Numbers: Adopted Action:

660.10 Amendments
660.20 Amendments
660.25 Amendments
660.40 Amendments
660.50 Amendments
660.60 Amendments

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36].

5) Effective Date of Rulemaking: April 28, 1998

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) Date filed in Agency's Principal Office: April 27, 1998

9) Notice of Proposal Published in Illinois Register: February 6, 1998, 22 Ill. Reg. 2708

10) Has JCAR issued a Statement of Objections to these rules? No

11) Difference(s) between proposal and final version:

Removed "Season" from the name of the Part

Source Note - added "9122" following "amended at 21 Ill. Reg."

660.20(a) - deleted ".00" following dollar amounts

660.20(d) - deleted ".00" following dollar amount

660.20(e) - deleted ".00" following dollar amount

660.20(g), replaced "one day" with "each day"; and following processed, moved the period to after the parenthesis

660.25(c) - changed "Applicant" to "Applicants"

660.40(a) - changed "rule" to "Section"; and deleted the comma following

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"antlers"

660.60(g) - Union County - changed "Only" to "only"

660.60(h) - deleted the ".00" following the dollar amount

660.60(h) - Hidden Springs - added a closing parenthesis following "season"

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: This Part is being amended to remove language stating only one choice of hunt area or county will be considered and add language allowing hunters to specify a second choice of hunt county or special site on their application; change the First Random Daily Drawing period for firearm deer permits to a single lottery drawing; allow applicants during the second drawing period to apply for permits as a group (maximum of 6 hunters/group); change the first day of the September Random Daily Drawing Period (the third application period) from September 1 to the first working day after September 14; add language indicating that no hunter, regardless of the quantity or type of permit in his/her possession, may harvest more than 2 antlered deer during a year, including the archery, muzzleloader, and firearm seasons; hunters in possession of either-sex permits after having harvested 2 antlered deer during a year, may only use the permit to harvest antlerless deer; either-sex permit holders are allowed to take a deer with or without antlers and an antlered-only permit holder is allowed to take only a deer having at least one antler of a length of 3 or more inches; open/close sites to hunting; and change deer hunting programs at several sites.

16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield, IL 62701-1787
217/782-1809

The full text of the Adopted Amendments begins on the next page:

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TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 660

WHITE-TAILED DEER HUNTING SEASON BY USE
OF MUZZLELOADING RIFLES

Section	Statewide Season and Permit Quotas
660.10	Statewide Deer Permit Requirements
660.20	Deer Permit Requirements - Free Landowner/Tenant Permits
660.21	Deer Permit Requirements - Special Hunts
660.22	Deer Permit Requirements - Group Hunt
660.25	Statewide Muzzleloading Rifle Requirements
660.30	Statewide Deer Hunting Rules
660.40	Reporting Harvest
660.45	Rejection of Application/Revocation of Permits
660.50	Regulations at Various Department-Owned or -Managed Sites
660.60	

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36].

SOURCE: Adopted at 15 Ill. Reg. 4777, effective March 18, 1991; amended at 15 Ill. Reg. 11627, effective August 2, 1991; amended at 16 Ill. Reg. 11150, effective June 30, 1992; amended at 17 Ill. Reg. 10865, effective July 1, 1993; amended at 18 Ill. Reg. 5878, effective April 5, 1994; amended at 18 Ill. Reg. 13435, effective August 23, 1994; amended at 19 Ill. Reg. 6500, effective April 28, 1995; amended at 20 Ill. Reg. 6734, effective May 6, 1996; amended at 21 Ill. Reg. 5583, effective April 19, 1997; amended at 21 Ill. Reg. 9122, effective June 26, 1997; amended at 22 Ill. Reg. 8028, effective APR 28 1998.

Section 660.10 Statewide Season and Permit Quotas

a) Season: One-half hour before sunrise on Friday of the third 3-day (Friday, Saturday, Sunday) weekend following Thanksgiving to sunset on Sunday of this 3-day weekend in December. The hunter with a Muzzleloading Rifle Deer Permit may also hunt during the second firearm deer season (the first 4-day weekend -- Thursday, Friday, Saturday and Sunday -- following Thanksgiving), providing the hunter must use only a legal muzzleloading rifle and must abide by 17 Ill. Adm. Code 650.60 when hunting on Department-owned or -managed sites. Hunting hours are one-half hour before sunrise to sunset.

b) Permit quotas shall be set by the Department of Natural Resources (Department) on a county or special hunt area basis. Cook, DuPage, Lake and Kane counties are closed to muzzleloading rifle deer hunting.

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(Source: Amended at 22 Ill. Reg. 8028, effective APR 28 1998)

Section 660.20 Statewide Deer Permit Requirements

a) Illinois resident hunters must have a current, valid "Muzzleloading Rifle Deer Permit" (\$15-00). Muzzleloading rifle deer permit fees for non-residents shall be \$100-00 for each either-sex muzzleloading permit and \$25-00 for each antlerless-only permit. No individual may apply for--or--receive--more--than--2--either-sex--permits--(including antlerless-only permits)--firearm--permits--(either--sex--firearm--permits--second--season--either--sex--firearm--permits--and--either--sex--muzzleloading--permits)--for--use--during--all--gun--deer--seasons--(both firearm--and--muzzleloading). A permit is issued for one county and is valid only in the county stated on the permit. Only applicants who receive an either-sex permit in a county or special hunt area are eligible for an antlerless-only permit for that county or special hunt area, except in counties that are specially designated for more intensive removal of does in a given year. Any such these counties will be identified prior to the Random Daily Drawing Period which begins in September second-random-daily-drawing, and a limited number of antlerless-only permits will be made available regardless of whether applicants already possess an either-sex permit. For permit applications and other information write to:

Department of Natural Resources
(Muzzleloading Rifle)
Deer Permit Office
524 South Second Street, Room 210
P.O. Box 19227
Springfield, IL 62794-9227

b) Applications from Illinois residents for participation in the First Lottery Drawing shall be accepted through the last weekday in April of the current year. Nonresidents may not apply to participate in the First Lottery Drawing. Applications received after the last weekday in April shall not be included in this the lottery. Permits shall be allocated in a computerized random drawing in-which-only-one-choice-of hunt--area--or-county--shall-be-considered. Permits shall be issued as either-sex, antlerless-only or antlered only. A maximum of one either-sex and one antlerless-only permit shall be issued per person. Applicants must complete all portions of the current year permit application form. Incomplete or incorrect applications will be returned along with the applicant's permit fee for correction or completion if received in the Permit Office prior to the last weekday in April of the current year.

d) Applicants must check the antlerless-only box and enclose an additional \$15-00 if---they---want to apply for an additional

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antlerless-only permit. Antlerless-only permits will be issued until the antlerless-only quota is filled for a given county or special hunt area.

e)† Permits for counties and special hunt areas with unfilled quotas after the First Lottery Drawing ~~lottery~~ shall be allocated in a Second Lottery Drawing ~~random-drawing-procedure~~. This drawing is open only to nonresident applicants and to Illinois residents who were not previously issued firearm or muzzleloader permits for the current hunting season. Applications for ~~the-random-daily-drawing-shall-be-accepted-beginning-August-1-and-ending-on~~ the Second Lottery Drawing will be accepted through the tenth weekday in August of the current year. Applicants may also apply for remaining antlerless-only permits by checking the antlerless-only box and enclosing an additional \$15.00. ~~Applications-received-prior-to-August-1-will-be-processed-in-the-August-1-daily-drawing.~~ A list of unfilled counties shall be announced upon becoming available after the First Lottery Drawing ~~prior-to-the-August-application-dates~~. Applicants must apply on a current year "Muzzleloading Rifle" Deer Permit application form. All applications ~~for-the-random-daily-drawing-shall-be-processed-individually.~~ This application period is open only to those applicants who were not previously issued firearm permits for the current hunting season, except as provided in Section 660-20(c). A maximum of one either-sex and one antlerless-only permit shall be issued per person.

e)† Those applicants who have already received a muzzleloading rifle permit and did not check the antlerless-only box may apply for an antlerless-only permit for the county specified on their either-sex permit beginning September 1. Applicants shall complete an application form, provide a photocopy of their either-sex permit, and enclose a check for \$15.00 (\$25.00 for non-residents).

f)† In-person and mail-in applications shall receive equal treatment in the drawings. For the random-daily-drawing, applications received one day shall not be processed until all applications received for that day are mixed. All applications received on a specific day shall be processed before processing applications received for a subsequent day.

f)† Applications must complete all portions of the current year permit application form. Incomplete or incorrect applications shall be returned along with the applicant's permit fee for correction or completion if received in this office prior to the last weekday in April of the current year. No more than 6 single applications per envelope shall be accepted during the application periods for the First and Second Lottery Drawings. Each applicant must submit a separate personal check or money order. Separate envelopes must be used to send permit applications to the Deer Permit Office for regular firearm, muzzleloading rifle, handgun, archery, and free or paid landowner/tenant permits.

h)† Applications for non-resident muzzleloading rifle firearm permits

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shall be accepted beginning August 1 and will be included with the residents in the random-daily drawing.

g)† There will be an application period which starts the first working day after September 14 September 1 and ends the fifth weekday in November during which anyone (regardless of any other permit they may have, subject to the restriction in subsection (a)) can apply for muzzleloading deer permits (\$15.00-fee) left over from the county and special hunt area quotas. During this the application period, the permits shall be issued in a random daily drawing. Applications received each day will not be processed until all applications received for that day are mixed. All applications received on a specific day will be processed before processing applications received for a subsequent day. All applications for the Random Daily Drawing will be processed individually (i.e., no group applications will be processed). Applicants can apply for one or more permits during this application period. Full season antlerless-only permits shall only be issued to successful applicants that have full season either-sex permits in the county applied for for that county. Applicants submitting applications after October 24 cannot be guaranteed a permit by the start of the second firearm-deer hunting season. Applicants must print "September 1 Drawing - Multiple Muzzleloader Permits" on the outside of the envelope and mark the "September 1 Drawing - Multiple Permits" box on the muzzleloading rifle deer permit application.

h)† Hunter preference in obtaining a muzzleloading rifle permit during the First Lottery Drawing shall be given to individuals that applied for an either-sex muzzleloading permit in the previous year's First Lottery Drawing who were rejected because the quota was depleted in their county choice(s) to unsuccessful lottery applicants from the previous year who were unsuccessful due to the county of their choice being full. The following criteria must be met to obtain a preference in the muzzleloading rifle First Lottery Drawing: permit lottery.

1) The applicant must apply using the official agency preprinted data-mailer application.

2) The applicant must be a resident of the state, be eligible to receive a Muzzleloading Rifle Deer Permit, and not had deer hunting privileges revoked pursuant to Section 660-50.

3) The applicant must apply for the same county choice(s) choice which he/she listed on the previous year's application. Preference will not be granted for special hunt areas.

4) Where applicants apply as a group, preference for the entire group shall apply as it does above for the individual. All county choices for the group must be identical.

i)† Applications shall be accepted at the counter window of the permit office; however, permits shall be mailed. In-person and mail-in applications will receive equal treatment in the drawings.

j)† Permits are not transferrable. Refunds shall not be granted unless the Department of Natural Resources has erroneously issued the permit

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after the quota has been depleted or where the applicant was unsuccessful in obtaining a permit.

k) A \$3.00 service fee shall be charged for replacement permits issued by the Department, except when permits are lost in the mail, then there shall be no charge. Monies derived from this source shall be deposited in the Wildlife and Fish Fund.

n) Each applicant must enclose a separate \$15.00 (check or money order) payable to the Department of Natural Resources, or the application shall be returned. Applications should not be sent cash with their applications. The Department shall not be responsible for cash sent through the mail.

(Source: Amended at 22 Ill. Reg. 8023, effective APR 28 1998)

Section 660.25 Deer Permit Requirements - Group Hunt

a) Up to six individuals may apply to hunt as a group during the First and Second Lottery Drawings. If applicants are applying in a group, all applications for the group must be sent to the Department in the same envelope. All applications for the group shall be processed together only if they are received in the same envelope. Any applications indicating participation in a group that are not received in the same envelope shall be processed separately.

b) Each individual must sign his or her own application.

c) Applicants must enclose a separate check or money order for the appropriate amount for each application or the applications will be returned.

d) In order to receive preference for the group, all members must have preference for the same county choice. If any member does not have preference for the group's first county choice, the entire group shall not receive preference.

e) Applicants applying as a group shall be rejected if they do not list the same county choice and complete the group leader information listing the identical group leader.

(Source: Amended at 22 Ill. Reg. 8023, effective APR 28 1998)

Section 660.40 Statewide Deer Hunting Rules

a) The bag limit is one deer per legally authorized either-sex, antlered-only or antlerless-only permit. All either-sex permits and antlered-only permits are subject to the following restriction: no hunter, regardless of the quantity or type of permits in his/her possession, may harvest more than 2 antlered deer during a year, including the archery, muzzleloader, and firearm seasons. For purposes of this Section, deer seasons are considered to be in the

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same year if their opening dates fall within the same 12-month period that begins on July 1. A hunter in possession of an either-sex permit after having harvested 2 antlered deer during a year, as defined above, may only use the permit to harvest an antlerless deer. An either-sex permit holder is allowed to take a deer with or without antlers. An antlered-only permit holder is allowed to take a deer with or without antlers. A length-of-3-or-more-inches deer having at least one antler of a length of 3 or more inches. Subject to this restriction, an either-sex permit holder is allowed to take a deer with or without antlers and an antlered-only permit holder is allowed to take only a deer having at least one antler of a length of 3 or more inches. An antlerless only permit holder is allowed to take only a deer without antlers or a deer having antlers less than 3 inches long.

b) Recipients of the Muzzleloading Rifle Deer Hunting Permit shall record their signature on the permit and must carry it on their person while hunting.

c) The temporary harvest tag shall be attached and properly sealed immediately upon kill and before the deer is moved, transported or field dressed. No person shall leave any deer that has been killed without properly attaching the temporary harvest tag to the deer. The temporary harvest tag should be attached around the base of the antler of antlered deer (antlers 3 or more inches in length), and attached to the leg of antlerless deer (<3 inch antler length, or no antlers). A permanent harvest tag will be attached to the leg of the deer upon check out at the check station. If the head/antlers are delivered to a taxidermist for processing, the temporary harvest tag must accompany them and be kept with the head/antlers while at the taxidermist. If the carcass is taken to a meat processor, the permanent harvest tag must remain attached to the leg of the deer until it is processed, then must remain with the processed deer until it is at the legal residence of the person who legally took or possessed the deer. Persons delivering deer/parts of deer to a tanner for processing must supply the tanner with their deer permit number to verify lawful acquisition. In the absence of a permit number, the tanner may rely on the written certification of the person from whom the deer was received that the specimen was legally taken or obtained. Hunters shall not have in their possession, any deer permit issued to another person, while in the field during muzzleloading rifle deer season (permits are non-transferrable).

e) Permits will not be re-issued in cases involving deer taken which are found to be diseased or spoiled due to previous injury. Legal disposal of unfit deer taken shall be the responsibility of the hunter.

(Source: Amended at 22 Ill. Reg. 8023, effective APR 28 1998)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- a) In the event that an applicant is in violation of one of the following subsections, the application shall be held in suspension, and the application fees shall be deposited, pending a determination by the permit office of whether the violation was knowing. If the permit office determines the violation was knowing, the application shall be rejected and the fee shall be retained by Natural Resources. The applicant may request a hearing on this decision pursuant to 17 Ill. Adm. Code 2530. Should it be determined that the violation was without the knowledge of the applicant, the permit office will process only the number of applications allowed by administrative rule with additional applications rejected and fees returned.
- 1) Using hunting rights lease, or mineral rights lease or other lease for land which does not evidence a genuine farm tenancy to obtain a landowner or tenant firearm deer permit.
 - 2) Submitting more applications application in the same name number or by the same person for a Muzzleloading Rifle Deer Permits than the number of legally authorized permits Permit-then--allowed--in Section-660-20.
 - 3) Applying prior to the Second Lottery Drawing September-1 for a muzzleloading rifle deer permit if the applicant has already been issued a regular firearm deer permit, a free landowner/tenant permit, or a paid landowner permit you-have-applied-for-and received-a-regular-shotgun-firearm-permit.
 - 4) Providing false and/or deceptive information on the deer permit application form.
 - 5) Submitting an application when the applicant has a license or permit currently revoked pursuant to Section 3.36 of the Wildlife Code.

- b) Any violation of the Wildlife Code or administrative rules of the Department, in addition to other penalties, may result in revocation of hunting licenses and permits as per 17 Ill. Adm. Code 2530.

(Source: Amended at 22 Ill. Reg. 8025, effective APR 28 1998)

Section 660.60 Regulations at Various Department-Owned or -Managed Sites

- a) All the regulations in 17 Ill. Adm. Code 510 - General Hunting and Trapping apply in this Section, unless this Section is more restrictive.
- b) Only one tree stand is allowed per deer permit holder. Tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510(c)(3) and must be portable. Tree stands must be removed at the end of each day with the exception that they may be left unattended from September 15 - January 31 at those sites listed in this Section that are followed by a (1).
- c) Check-in, check-out and reporting of harvest is required at those sites listed in this Section that are followed by a (2).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- d) Handicapped preferred hunting opportunities are provided at those sites listed in this Section that are followed by a (3).
- e) Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in this Section that are followed by a (4).
- f) Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in this Section that are followed by a (5).
- g) Statewide regulations shall apply at the following sites:

Cache River State Natural Area (1) (2)

Campbell Pond Fish and Wildlife Area (1) (2)

Carlyle Lake Wildlife Management Area except subimpoundment areas

Carlyle Lake Lands and Waters - Corps of Engineers managed lands

Chauncey Marsh (1) (2)

Crawford County Fish and Wildlife Area (1) (2)

Cypress Creek National Wildlife Refuge

Cypress Pond State Natural Area (1) (2)

Dog Island Wildlife Management Area (1) (2)

Ferne Clyffe State Park (1) (2)

Fort de Chartres Historic Site (1) (2)

Giant City State Park (1) (2)

Hamilton County Fish and Wildlife Area (1) (2)

~~Hidden-Springs--State--Forest--(closed-during-second-firearm-deer season)-(1)-(2)~~

Horseshoe Lake Conservation Area - Alexander County (all portions of the Public Hunting Area except the Controlled Goose Hunting Area) (1) (2)

I-24 Wildlife Management Area (1) (2)

Kaskaskia River Fish and Wildlife Area (Doza Creek Waterfowl Management Area is closed during duck season) (2, except south of Highway 154 and north of Highway 13)

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Kickapoo State Park (closed during second firearm deer season)
(1) (2)

~~Kidd Lake State Natural Area~~ (1) (2)

Kinkaid Lake Fish and Wildlife Area (1) (2)

Mermet Lake Conservation Area (1) (2)

Middle Fork Fish and Wildlife Area (closed during second firearm deer season) (1) (2)

Mississippi River Pool 16 (1)

Mississippi River Pool 17 (1)

Mississippi River Pool 18 (1)

Mississippi River Pools 21, 22, 24 (1)

Mississippi Fish and Waterfowl Management Area - Pools 25 and 26

Oakford Conservation Area (1)

Panther Creek Conservation Area (1) (2) (4)

Pere Marquette State Park (hunting in designated area only) (2)

Pyramid State Park (1) (2)

Ray Norbut Conservation Area (2)

Rend Lake Fish and Wildlife Area

Saline County Fish and Wildlife Area (1) (2)

Sand Ridge State Forest (1) (2)

Sanganois Fish and Wildlife Area (1)

Ten Mile Creek Fish and Wildlife Area (1); Belle Rive Unit only
(4)

Trail of Tears State Forest (1) (2)

Turkey Bluffs Fish and Wildlife Area (1) (2)

Union County Conservation Area (Firing Line Unit only) (1) (2)

DEPARTMENT OF NATURAL RESOURCES

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Weinberg-King State Park (2)

Wildcat Hollow State Forest (1)

- h) Statewide regulations shall apply at the following sites by special permit allocated through the regular statewide drawing. Season dates that differ from the statewide dates are in parentheses. Sites that offer standby hunting are followed by a (6). At sites offering standby hunting, permit holders must register at the check station by 5:00 a.m. each day of the hunt. Unvalidated permits are void after 5:00 a.m. Vacancies each day will be filled by a drawing held at 5:00 a.m. Vacancies may be filled by any person holding a valid hunting license, Habitat Stamp, and Firearm Owner Identification Card, if required. Standby hunters will be issued a one-day site-specific deer permit at the check station, and charged a permit fee of \$5.00. All hunters must check out and report harvest.

Castle Rock State Park (closed during second firearm season; antlerless deer only) (2) (6)

East Conant Field (1) (4)

Hidden Springs State Forest (closed during second firearm deer season) (1) (2)

Sato Field (1) (4)

Tapley Woods State Natural Area (closed during the second firearm deer season)

(Source: Amended at 22 Ill. Reg. 3025, effective 10/20/1998)

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL TO MODIFY OR WITHDRAW RULE
TO MEET THE OBJECTION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Standards for the Management of Used Oil
- 2) Code Citation: 35 Ill. Adm. Code 739
- 3) Date Notice of Proposed Rules Published in the Register: 8/8/97, 21 Ill. Reg. 10863
- 4) Date Notice of Adopted Rules Published in the Register: 1/2/98, 22 Ill. Reg. 256
- 5) Date JCAR Statement of Objection Published in the Register 3/6/98, 22 Ill. Reg. 4514

6) Summary of Action Taken by the Board: The statement of objection of the Joint Committee on Administrative Rule (JCAR) concluded that

While this rulemaking initially included identical-in-substance amendments those changes were removed by the PCB when the USEPA changed its position on the related federal rules, leaving this "identical in substance" rule containing only technical changes. At that point, the rulemaking no longer met the statutory requirements for the use of the Section 22.4 (a) process and PCB should have proposed its technical changes through regular rulemaking.

JCAR's objection relates to certain stylistic amendments the Board made to part 739 through the Board's identical in substance (IIS) rulemaking authority under Section 22.4 of the Environmental Protection Act. These amendments were included in a consolidated Board docket (R96-10,R97-3 and R97-5) which resulted in the November 6, 1997 Board adoption of 659 pages of rules. These rule amendments were drafted over a six-month time period, for the purpose of making amendments to 119 sections in 13 parts of the State's hazardous waste regulations, as required by State and federal law. Specifically regarding Part 739, the Part was opened in response to substantive federal changes which were subsequently withdrawn by USEPA. The Board removed the withdrawn amendments from the draft, and should have withdrawn the Part from its rulemaking. Nevertheless, the Board went forward and made certain stylistic changes, as follows, which are the subject of JCAR's objection:

739.Source Note	Removed underlining of added text
739.110(d)(1)	Changed "below" to "of this Section"
739.110(e)(1)(B)	Changed "Parts" to "35 Ill. Adm. Code"
730.110(e)(3)	Changed "below" to "of this Section"
739.110(g)(4)	Changed "below" to "of this Section"

These are "clean-up changes" of the type typically made in IIS rulemakings as necessary, in the normal course of making the substantive changes

POLLUTION CONTROL BOARD

NOTICE OF REFUSAL TO MODIFY OR WITHDRAW RULE
TO MEET THE OBJECTION OF THE
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required in State rules as a result of USEPA changes. They are the sort of changes requested by JCAR staff in the event the Board does not propose them itself.

The Board recognizes that it should not have gone forward with stylistic changes to Part 739 in the absence of substantive changes required by the IIS process. In the future, the Board will not use its IIS rulemaking authority to make any stylistic changes in any Part of any rule unless the Part is also being amended to conform to rules adopted by the USEPA.

However, the Board does not believe that leaving the current text of Part 739.110 in the Administrative Code will cause any confusion to the regulated community or cause any enforcement difficulties. Further, to undo the stylistic amendments to Part 739.110 would require a new rulemaking under Section 27 of the Environmental Protection Act. The Board doubts that JCAR intended such an expenditure of State resources to undo these non-substantive, stylistic changes. The Board accordingly does not intend to initiate general rulemaking to replace the existing text of Part 739.110.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION
TO EMERGENCY RULEMAKING

STATE BOARD OF EDUCATION

Heading of the Part: School Construction Program

Code Citation: 23 Ill. Adm. Code 151

Section Numbers: 151.55

Date Originally Published in the Illinois Register: 4/3/98
22 Ill Reg 6238

At its meeting on April 21, 1998, the Joint Committee on Administrative Rules recommended that when the State Board of Education gives Second Notice on the proposed rules entitled School Construction Program that, in determining needed capacity for a unit district, the Board consider classifying 9th grade as either elementary or secondary school based on in which type of facility that district places 9th grade classes.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF THE LOTTERY

Heading of the Part: Lottery (General)

Code Citation: 11 Ill Adm Code 1770

Section Numbers: 1770.190(i)

Date Originally Published in the Illinois Register: 1/16/98
22 Ill Reg 1650

At its meeting on April 21, 1998, the Joint Committee on Administrative Rules objected to Section 1770.190(i) of the above cited rulemaking because it may create an adverse economic impact on past multi-year prize winners in that the IRS' Doctrine of Constructive Receipt may be applied to all past multi-year winners, regardless of whether they choose to liquidate. Because the liquidation of multi-year prizes constitutes a major policy issue that may be impacted by the current statute's posture on assignability of prizes, this is an issue that should be addressed statutorily, not through rulemaking. Removal of the liquidation provision in Section 1770.190(i) will maintain the status quo on this issue until the General Assembly has the opportunity to act legislatively.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of April 21, 1998 through April 27, 1998 and have been scheduled for review by the Committee at its May 19, 1998 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
6/4/98	Department of Natural Resources, Repeal of Illinois Weather Modification Control Act (68 Ill Adm Code 900)	2/20/98 22 Ill Reg 3660	5/19/98
6/4/98	Pollution Control Board, Permits and General Provisions (35 Ill Adm Code 201)	12/12/97 21 Ill Reg 16023	5/19/98
6/4/98	Pollution Control Board, Tiered Approach to Corrective Action Objectives (35 Ill Adm Code 742)	12/26/97 21 Ill Reg 16982	5/19/98
6/6/98	Department of Revenue, Payment of Taxes by Electronic Funds Transfer (86 Ill Adm Code 750)	1/9/98 22 Ill Reg 1113	5/19/98
6/6/98	Department of Revenue, Renewable Energy Resources and Coal Technology Development Assistance Charge (86 Ill Adm Code 517)	2/6/98 22 Ill Reg 2761	5/19/98
6/6/98	Department of Revenue, Energy Assistance Charge (86 Ill Adm Code 516)	1/2/98 22 Ill Reg 172	5/19/98
6/6/98	Department of Natural Resources, Operation of Watercraft Carrying Passengers for Hire on Illinois Waters (17 Ill Adm Code 2080)	2/27/98 22 Ill Reg 4232	5/19/98

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

6/7/98	Office of the Attorney General, Programmatic and Fiscal Requirements for Administering Funds Under the Violent Crime Victims Assistance Act (89 Ill Adm Code 1100)	2/13/98 22 Ill Reg 3218	5/19/98
6/10/98	Department of Financial Institutions, Consumer Installment Loan Act (38 Ill Adm Code 110)	2/13/98 22 Ill Reg 3258	5/19/98
6/10/98	Department of Financial Institutions, Financial Planning and Management Service Act (38 Ill Adm Code 140)	5/19/98	
6/10/98	Department of Financial Institutions, Sales Finance Agency Act (38 Ill Adm Code 160)	2/13/98 22 Ill Reg 3314	5/19/98
6/10/98	Department of Transportation, Inspection Procedures for Type I School Buses (92 Ill Adm Code 441)	12/1/97 21 Ill Reg 15093	5/19/98

PROCLAMATIONS

98-193
DISASTER AREA - CLAY COUNTY

A tornado and severe thunderstorms occurred on April 15, 1998, which was a part of a severe weather system moving across central Illinois inflicting heavy damage in the City of Flora. The storm system caused extensive damage to homes, businesses and other properties.

In the interest of responding to the threat imposed to public health and safety as a result of the storm systems, I hereby declare that a disaster exists within the State of Illinois, and specifically identify Clay County as a disaster area, pursuant to the provisions of Section 3305/7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(1922).

This gubernatorial declaration of disaster will aid the Illinois Emergency Management Agency in coordinating the State effort to assist local governments in disaster response and recovery operations, and to assist volunteer resources in providing reasonable and necessary emergency measures to disaster response in any part of the State. This declaration will also provide for the assessment of damages and the determination of a need to request supplemental Federal assistance.

Issued by the Governor April 16, 1998.
Filed by the Secretary of State April 16, 1998.

98-194
DISASTER AREA - MARION COUNTY

A tornado and severe thunderstorms occurred on April 15, 1998, which was a part of a severe weather system moving across southeastern Illinois inflicting heavy damage in the cities of Salem and Tuka in Marion County. The tornado caused extensive damage to homes, businesses and other properties.

In the interest of responding to the threat imposed to public health and safety as a result of the storm systems, I hereby declare that a disaster exists within the State of Illinois, and specifically identify Marion County as a disaster area, pursuant to the provisions of Section 3305/7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(1922).

This gubernatorial declaration of disaster will aid the Illinois Emergency Management Agency in coordinating the State effort to assist local governments in disaster response and recovery operations, and to assist volunteer resources in providing reasonable and necessary emergency measures for disaster response in any part of the State. This declaration will also provide for the assessment of damages and the determination of a need to request supplemental Federal assistance.

Issued by the Governor April 16, 1998.
Filed by the Secretary of State April 16, 1998.

98-195
ILLINOIS COLLEGE OF OPTOMETRY DAY

Whereas, the Illinois College of Optometry has been in continuous existence since its founding in 1872, providing excellence in optometric education to dedicated men and women in order that they may serve the eye care

needs of their respective communities; and

Whereas, the Illinois College of Optometry is America's oldest and largest school of optometry and will kick off its 125th anniversary with a symposium that showcases the future of optometric practice for its students and alumni on Tuesday, April 23, 1998; and

Whereas, the symposium will feature Kenneth Meyers, O.D., Ph.D., a nationally known speaker on current and future trends of optometric practice. He will be followed by a panel of practicing optometrists who will discuss the current trends of various practice options, including private practice, group practice, joint optometric-ophthalmic practice, corporate optometry, hospital-based optometry, and government venues; and

Whereas, a number of events are planned to commemorate the 125th anniversary, including student activities, class reunions for alumni, and a dinner with the Illinois Optometric Association on October 30th; and

Whereas, the profession of Optometry is recognized for its dedication to the diagnosis and treatment of vision problems and the alumni of the Illinois College of Optometry have, through their leadership and vision, helped to materially advance their profession;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 23, 1998, as ILLINOIS COLLEGE OF OPTOMETRY DAY in Illinois.
Issued by the Governor April 8, 1998.
Filed by the Secretary of State April 20, 1998.

98-196
MARITIME DAY

Whereas, National Maritime Day has been observed since 1933, marking the date of the first successful Atlantic crossing by a ship using steam propulsion; and

Whereas, today we honor the American Merchant Marine, whose men and women served in time of war and peace, contributing to the waterborne commerce of our State and nation; and

Whereas, men and women from each of our states who are serving in the American Merchant Marine are honored on this day each year, along with the many seamen who lost their lives in the World Wars and those who served with such courage and dedication in the Korean, Vietnam, and Persian Gulf conflicts; and

Whereas, these ocean-going merchant ships greatly benefit the economic standing of Illinois by carrying their cargoes through the Great Lakes and its inland waterways; and

Whereas, the Propeller Club of the United States, with 63 member clubs through the country, annually takes time to celebrate this day with a variety of functions;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 15, 1998, as MARITIME DAY in Illinois.
Issued by the Governor April 8, 1998.
Filed by the Secretary of State April 20, 1998.

98-197
REV. DR. HENRY M. WILLIAMSON, SR. DAY

Whereas, Rev. Dr. Henry M. Williamson, Sr. has served as a minister in the Christian Methodist Episcopal Church for 31 years; and

Whereas, he has served 12 years as pastor of Carter Temple CME Church, a congregation of approximately 3,000 members; and

Whereas, Rev. Williamson has instituted many community needs meeting ministries at the church, including groups that help feed and clothe the homeless, a mentoring program and a drug awareness ministry; and

Whereas, Rev. Williamson is the founder and president of One Church One School a community partnership program that seeks to partner churches and schools across this nation in an alliance that positively impacts the academic achievement, social behavior and personal development of young people; and

Whereas, Rev. Williamson has contributed to the expansion of economic opportunities, quality of education and increased political empowerment for minorities, especially African Americans in Chicago and throughout the State. He has assisted and supported leaders of integrity who have the best interest of the people as their goal; and

Whereas, Rev. Williamson is the devoted husband of Doris Yvonne Keys Williamson, and the loving father of Kelli and Henry, Jr. and grandfather of Jonathan;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 16, 1998, as REV. DR. HENRY M. WILLIAMSON, SR. DAY in Illinois.

Issued by the Governor April 8, 1998.

Filed by the Secretary of State April 20, 1998.

98-198

SHEERIT HAPLEITAH HOLOCAUST MEMORIAL DAY

Whereas, the 53rd annual collective memorial for Holocaust victims will be April 26, 1998, at the Skokie Valley Agudath Jacob Synagogue in Skokie, Illinois; and

Whereas, Sheerit Hapleithah of Metropolitan Chicago includes a dozen organizations which provide programs and services to Holocaust survivors and their families, and is organizing this memorial service; and

Whereas, the ceremony will be conducted by board members of the Memorial Committee and community leaders, with participation by children and grandchildren of local-area Holocaust survivors; and

Whereas, on this day in a candle-lighting ceremony, we will memorialize and honor the 6 million victims, including 1.2 million children, who perished in the Holocaust; and

Whereas, the memorial is expected to be attended by more than 1,500 people, including an estimated 1,000 Holocaust survivors; and

Whereas, Sheerit Hapleithah works tirelessly to organize this solemn event in order to remember the victims of the Holocaust and to provide eyewitness testimony so that the atrocity of the Holocaust will be remembered by present and future generations and will never happen again;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 26, 1998, as SHEERIT HAPLEITAH HOLOCAUST MEMORIAL DAY in Illinois.

Issued by the Governor April 8, 1998.

Filed by the Secretary of State April 20, 1998.

98-199

WEEK OF VOLUNTEERING

Whereas, throughout Illinois and the nation, volunteers give their time

and talents to people and organizations that would not otherwise receive help; and

Whereas, the millions of Americans who give this service are essential to our country's welfare. Giving unselfishly of their time, they enhance all areas of life, and their volunteer service is a major element in building better communities, better states and a better sense of well-being; and

Whereas, these volunteers are essential for solving human problems, and their willingness to help others without compensation is an important element of life in Illinois;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 19-25, 1998, as WEEK OF VOLUNTEERING in Illinois, and urge all citizens to take pride in their volunteer heritage and to give special recognition to the volunteers and volunteer programs in our communities and our State.

Issued by the Governor April 8, 1998.

Filed by the Secretary of State April 20, 1998.

98-200

BOB BELL DAY

Whereas, in 1956, Bob Bell joined WGN Continental Broadcasting Company as an announcer, and early in his career played many different characters on "The Wally Phillips Show" and "Midnight Ticker"; and

Whereas, on Monday, June 20, 1960, Bob Bell began portraying Bozo the Clown as the sole host of a 30-minute show consisting of comedy sketches and cartoons; and

Whereas, Bell's popularity greatly contributed to the famous waiting list to be in the studio audience of WGN's Bozo show, where some people waited as long as 10 years for tickets to the program; and

Whereas, in addition to being a Chicago television legend, Bell helped make WGN's Bozo show the most popular and successful locally produced children's program in television history; and

Whereas, Bob Bell and his portrayal of Bozo the Clown entertained and contributed to the growth of millions of children throughout America; and

Whereas, on December 8, 1997, Bob Bell, the comedic character-actor who portrayed Bozo the Clown for 24 years on WGN-TV, passed away; and

Whereas, the City of Chicago and the State of Illinois are honored to name Addison St. from Western Avenue to the Chicago River "Bob Bell Way";

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 18, 1998, as BOB BELL DAY in Illinois and extend condolences to the many friends and loved ones of Mr. Bob Bell, who worked tirelessly and selflessly for the betterment of the quality of life for children throughout Illinois.

Issued by the Governor April 9, 1998.

Filed by the Secretary of State April 20, 1998.

98-201

GAMMA PHI CIRCUS WEEK

Whereas, the Gamma Phi Circus has been promoting physical fitness in central Illinois since 1929; and

Whereas, the organization, initially created through the dedication of Clifford "Pop" Horton, has grown to become the oldest and largest collegiate circus in the nation; and

Whereas, Gamma Phi is open to all full-time students, faculty and staff members of Illinois State University; and

Whereas, Gamma Phi is a non-profit organization, dedicated to the development of leadership, physical fitness and academics among its members; and

Whereas, Gamma Phi has appeared on several television shows, performed several hundred exhibitions for area schools and organizations, put on 84 full-scale road shows and 61 annual on-campus shows; and

Whereas, the members of Gamma Phi Circus are dedicated to helping the Bloomington/Normal community and have helped other organizations including the Shriners, the Holy Trinity Church and Danvers fireman, raise thousands of dollars for their causes; and

Whereas, the Gamma Phi Circus will be presenting its 62nd annual Circus Week this coming April 17 and 18;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 12-18, 1998, as GAMMA PHI CIRCUS WEEK in Illinois.

Issued by the Governor April 9, 1998.

Filed by the Secretary of State April 20, 1998.

98-202

HOME-SCHOOL EDUCATION WEEK

Whereas, the State of Illinois is committed to excellence in education; and

Whereas, the State of Illinois recognizes the importance of family support in educational programs; and

Whereas, home education was proven successful in the lives of George Washington, Thomas Edison, Helen Keller, Agatha Christie, Franklin Roosevelt, and others and may be administered in Illinois under statutory requirements of the school code;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 19-25, 1998, as HOME-SCHOOL EDUCATION WEEK in Illinois.

Issued by the Governor April 9, 1998.

Filed by the Secretary of State April 20, 1998.

98-203

PART H EARLY INTERVENTION "LOOK WHAT I CAN DO" DAY

Whereas, early intervention services exist for children up to three years of age who may have or have been diagnosed with disabilities or developmental delays; and

Whereas, there is a statewide, family-centered early intervention services system in place established with the assistance of the Illinois Interagency Council on Early Intervention to help eligible children who are in need of early intervention services; and

Whereas, Look What I Can Do is a public awareness campaign designed to educate families, policy makers, health care and child care professionals about the importance of reaching children early with the services essential to their growth and development; and

Whereas, this is a proactive campaign emphasizing the importance of early intervention and is a coordinated effort at both the State and local levels to create a unified message; and

Whereas, this campaign should be commended and embraced for its potential success;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 24, 1998, as PART H EARLY INTERVENTION "LOOK WHAT I CAN DO" DAY in Illinois.

Issued by the Governor April 9, 1998.

Filed by the Secretary of State April 20, 1998.

98-204

"CATS" DAY

Whereas, the poems comprising Old Possum's Book of Practical Cats by T.S. Eliot have been set to music in their mostly complete and originally published form by Andrew Lloyd Webber and the Really Useful Group; and

Whereas, the Fourth National Tour of Andrew Lloyd Webber's musical production "Cats" originated in 1987; and

Whereas, the Really Useful Group, the Shubert Organization and the National Tour cast and company of "Cats" exemplify high standards through collaborative team work, respect for all, celebration of cultural diversity, positive self-esteem and determination and consistent hard work essential for success; and

Whereas, the cast and company of the National Tour of "Cats" perform various and many humanitarian acts including: visiting hospitals, participating in benefits, contributing personal resources to the wider community and inspiring and educating the youth of Illinois and the nation; and

Whereas, the cast and company members of the National Tour of "Cats," as positive role models, motivate, inspire and improve the personal, social and academic growth of youth as future productive citizens of Illinois and the nation;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 2, 1998, as "CATS" DAY in Illinois.

Issued by the Governor April 13, 1998.

Filed by the Secretary of State April 20, 1998.

98-205

CRIME VICTIMS' RIGHTS WEEK

Whereas, one violent crime is committed in America every 19 seconds; and Whereas, 36.8 million victimizations of Americans occur in the United States each year, and of those, 9.1 million are victims of violent crimes; and

Whereas, crime victims play an indispensable role in bringing offenders to justice; and

Whereas, law-abiding citizens are no less deserving of justice, rights, resources, restoration, and rehabilitation than the violent offenders who victimize them; and

Whereas, crime victims and their advocates over the past two decades have made unparalleled progress in securing rights for crime victims in the criminal justice system; and

Whereas, the citizens across America believe that Victims' Rights are Right for America and the millions of survivors of crime and their families deserve justice; and

Whereas, America, as a nation devoted to liberty and justice for all, must increase its efforts to protect, restore and expand crime victims' rights;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 19-25, 1998, as CRIME VICTIMS' RIGHTS WEEK in Illinois.
 Issued by the Governor April 13, 1998.
 Filed by the Secretary of State April 20, 1998.

98-206

HELP KIDS BE TOBACCO-FREE DAY

Whereas, the Illinois Coalition Against Tobacco (ICAT), headed by the American Heart Association and the American Lung Association, represents more than 100 organizations and individuals working together to reduce the use of tobacco in Illinois; and

Whereas, ICAT is holding its third annual anti-tobacco youth rally, with an expected 700 children from across the State convening at the State House on May 19, 1998; and

Whereas, last year, hundreds of students from all corners of the State met with their elected officials and encouraged them to take responsible action to protect young people from the appeal and addictiveness of tobacco products; and

Whereas, the purpose of ICAT is to make the public aware of the dangers of tobacco, advocate policy changes to reduce tobacco use, prevent children from using tobacco and to protect nonsmokers from the harmful effects of secondhand smoke; and

Whereas, the anti-tobacco youth rally, with young people taking a role in decreasing tobacco use and encouraging elected officials to help protect young people from the appeal and addictiveness of tobacco, provides an excellent example of determination;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 19, 1998, as HELP KIDS BE TOBACCO-FREE DAY in Illinois.
 Issued by the Governor April 13, 1998.

Filed by the Secretary of State April 20, 1998.

98-207

MS DINNER OF CHAMPIONS DAY

Whereas, multiple sclerosis (MS), a neurological disease of the central nervous system, is the number one disabling disease of women and men between the ages of 20 and 40; and

Whereas, each year, 10,000 new cases of MS are diagnosed, and an estimated 350,000 people nationwide have MS; and

Whereas, through contributions and fund-raising events such as the MS DINNER OF CHAMPIONS, the Chicago-Greater Illinois Chapter of the National MS Society seeks to increase public awareness and financial support for research and programs and services for the 10,000 people of Illinois who have MS; and

Whereas, the MS DINNER OF CHAMPIONS' recognizes individuals such as corporate philanthropic honoree A.T. Kearney, Inc., corporate sponsor American Airlines, sports honorees Dick Butkus, John Paxson, Fergie Jenkins, Bobby Hull and Carlton Fisk, MS Athlete of the Year Zoe Koplowitz, sports announcer honoree Ken "Hawk" Harrelson and Olympian Great Mike Eruzione;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 21, 1998, as MS DINNER OF CHAMPIONS' DAY in Illinois, and urge all citizens to show their support for multiple sclerosis research and programs.

Issued by the Governor April 13, 1998.

Filed by the Secretary of State April 20, 1998.

98-208

NURSES WEEK

Whereas, 2.6 million registered nurses in the United States and the 136,000 RNs in Illinois compromise our nation's and State's largest health care profession; and

Whereas, registered nurses are meeting the different and emerging health care needs of the American population in a wide range of settings; and

Whereas, registered nurses' education and holistic focus promotes prevention, restoration and maintenance of health in the individual and family; and

Whereas, a renewed emphasis on primary and preventive health care will require the better utilization of all of our nation's registered nursing resources; and

Whereas, professional nursing has been demonstrated to be an indispensable component in the safety and quality of care of hospitalized patients; and

Whereas, the demand for registered nursing services will be greater than ever because the aging of the American population, the continuing growth of life-sustaining technology and the explosive growth of home health care services; and

Whereas, more qualified registered nurses will be needed in the future to meet the increasingly complex needs of health care consumers in this community; and

Whereas, the cost-effective, safe and quality health care services provided by registered nurses will be an ever more important component of the U.S. health care delivery system in the future; and

Whereas, the American Nurses Association and the Illinois Nurses Association, as the voice for registered nurses of this country and State, are working to chart a new course for a healthy nation that relies on increasing delivery of primary health care and patient advocacy;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 6-12, 1998, as NURSES WEEK in Illinois.

Issued by the Governor April 13, 1998.

Filed by the Secretary of State April 20, 1998.

98-209

POLISH FRIENDSHIP THROUGH SONG AND MUSIC DAYS

Whereas, District No. 1 Polish Singers Alliance of America (PSAA) will host the 45th International Convention at the Chicago Westin Hotel, 909 N. Michigan Ave., May 20-24, 1998; and

Whereas, before the turn of the century, in May 1889, a group of singers and music lovers gathered in Chicago to form the Polish Singers Alliance of America; and

Whereas, members of the PSAA have striven and succeeded in adding their contribution to the advancement of culture of America and have been vitally involved in the preservation and propagation of the best values of Polish culture as the relevant part of the ethnic heritage of millions of Americans of Polish origin; and

Whereas, the PSAA is a non-profit cultural organization and their purpose

is to promote a better understanding and a friendship amongst all nationalities through Polish music and song; and

Whereas, the PSAA has participated in various festivals, centennials, open air concerts, operas, hospitals, political conventions, churches, and on radio and television; and

Whereas, during the convention weekend, the Chicago Chapter of PSAA will celebrate their 109th anniversary;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 18-25, 1998, as POLISH FRIENDSHIP THROUGH SONG AND MUSIC DAYS in Illinois.

Issued by the Governor April 13, 1998.

Filed by the Secretary of State April 20, 1998.

Rules acted upon during the quarter of April 1 through June 30, 1998 (Issues 1-13) are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 4401 published in Issue 40 will be listed as 50-4401-40. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatale@ccgate.sos.state.il.us (Internet address).

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